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A MANUAL

OF

PUBLIC HEALTH LAW.

BY

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OF THE INNER TEMPLE AND SOUTH WALES CIRCUIT, BARRISTER-AT-LAW.

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PREFACE.

THE purpose of this publication is to provide a guide to, and an outline of, the statutes which bear upon the subject of public health. Strictly, perhaps, the term "public health" is applicable only to those statutes the legal citation for which is the "Public Health Acts." It was scarcely possible, however, to take so narrow a view of the topic, and there will therefore be found dealt with most of the other statutes which make up the bulk of our sanitary legislation. In the matter of fulness of treatment a distinction has been made. Parts III. and IV. of the Public Health Act, 1875, the Public Health Acts Amendment Act, 1890, and the Public Health Acts Amendment Act, 1907, are treated in fairly complete detail, these containing the undoubted substance of our sanitary legislation. The remaining parts of the Act of 1875, and other statutes than those mentioned, are treated more or less fully according to the author's view of their importance or of the directness of their relationship to the subject of the work.

It is hoped that the book will be found useful by all those interested in sanitation as a branch of national or local government administration. More directly it is intended to assist those studying for various public examinations the regulations for which include the law relating to public health, and those who may be quali-

fying for such posts as medical officer of health, inspector of nuisances, and sanitary inspector.

It is necessary to warn practitioners, who may perhaps occasionally find it useful to turn to the work for the purpose of ascertaining what legislative provisions exist in connection with some topic of public health, that only in rare cases is any section of a statute set out in other than a highly condensed form. Although it is hoped that no glaring error will be discovered, yet absolute accuracy of statement is of course impossible in the circumstances.

In the preparation of the book it is desired to acknowledge the deepest indebtedness to the monumental edition of Lumley's Public Health, by Mr. Macmorran and his coadjutors. Thanks are also due to the author's clerk, Mr. B. Higgins, for the preparation of the index and tables.

BERTRAM JACOBS.

12, King's Bench Walk, Temple.
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PUBLIC HEALTH LAW.

CHAPTER I.

THE PUBLIC HEALTH STATUTES.

Definition.—By the law relating to public health we mean in general those provisions which have been made by the Legislature for safeguarding and furthering the health of the community, and in particular the provisions contained in the Public Health Acts and cognate statutes.

The Public Health Acts.—It is not necessary to enter into any account of the tentative efforts towards the improvement of the sanitary conditions of the people made by the Legislature before the passing of the Public Health Act, 1848, the first enactment on the subject that was both comprehensive in scope and general in application. This was followed at intervals by a series of amending and extending statutes until the year 1875, when the whole were repealed and re-embodied, with additions and modifications, in a single consolidating enactment, the Public Health Act, 1875, still in force, and the foundation of our present sanitary legislation. It will be as well to give here some slight indication of the contents of this great statute, as also of the statutes since passed in amendment and extension of it, the whole being comprised under the expression, "the Public Health Acts" (*a*).

(*a*) The Short Titles Act, 1896, included in this expression all the Acts from 1875 up to and including 1896. The Public Health Acts Amendment Act, 1907, and the Public Health Act, 1908, each provides for its inclusion in the expression. An Act of 1889 is not included in the following list, as it was repealed by the Public Health Act, 1896.

(i.) The Public Health Act, 1875, deals with sewerage and drainage, privies, water-closets, &c.; scavenging and cleansing; water supply; regulation of cellar dwellings and lodging-houses; nuisances; offensive trades; unsound meat, &c.; infectious diseases and hospitals; epidemic diseases; mortuaries, &c.; highways and streets; public pleasure grounds, &c.; markets and slaughter houses; port sanitary authorities, &c.

(ii.) The Public Health (Water) Act, 1878, enlarges powers of water supply (especially of rural authorities).

(iii.) The Public Health (Interments) Act, 1879, empowers local authorities to provide cemeteries.

(iv.) The Public Health (Fruit Pickers' Lodgings) Act, 1882, extends the powers of the Act of 1875, to make byelaws for the lodging of hop-pickers, to fruit and vegetable pickers.

(v.) The Public Health Act, 1875 (Support of Sewers), Amendment Act, 1883, applies certain provisions of the Waterworks Clauses Act, 1847, with respect to mines, to sanitary works over mines, and limits the right to support for sanitary works over mines.

(vi.) The Public Health (Confirmation of Byelaws) Act, 1884, requires confirmation of byelaws made under certain Acts incorporated in, *inter alia*, the Act of 1875.

(vii.) The Public Health (Officers) Act, 1884, requires the consent of the Attorney-General to proceedings for penalties against officers or servants of local authorities for being interested in contracts under sect. 193 of the Act of 1875.

(viii.) The Public Health (Ships, &c.) Act, 1885, extends the provisions of sect. 110 of the Act of 1875 relating to nuisances to other provisions of the Act relating to infectious diseases and hospitals: also authorises the Local Government Board to constitute permanent port sanitary authorities by Order in lieu of Provisional Order.

(ix.) The Public Health (Members and Officers) Act, 1885, modifies sect. 193 of the Act of 1875 against officers and servants of local authorities being interested in contracts.

(x.) Sections Seven to Ten of the Housing of the

Working Classes Act, 1885, compel local authorities to put in force their powers to secure the sanitary condition of all premises, empower them all to make byelaws as to lodgings, and to secure sanitary provision in relation to tents, vans, or similar structures used for dwellings.

(xi.) The Public Health (Buildings in Streets) Act, 1888, repeals sect. 156 of the Act of 1875 (prohibiting the bringing forward of buildings), and re-enacts same in enlarged form.

(xii.) The Public Health (Rating of Orchards) Act, 1890, explains rating sections of the Act of 1885 to the intent that orchards should not be rated higher than other cultivated lands.

(xiii.) The Public Health Acts Amendment Act, 1890, relates to drains and sewers, disposal of refuse in sewers, public conveniences, sanitary conveniences used in common, sanitary conveniences for manufactories, &c., rooms over privies, building on impregnated ground, flushing of water-closets, structure of dwelling-houses, paving of yards, removal of house refuse, conveyance of noxious matter, cleanliness of courts and passages in common, sale of food, and slaughter-houses. This Act is largely adoptive.

(xiv.) The Private Streets Works Act, 1892, enables urban authorities to deal with the expenses of making up streets more effectively than under the Act of 1875. The Act is adoptive.

(xv.) The Public Health Act, 1896, makes fuller provision in relation to epidemic, endemic, and infectious diseases, and quarantine.

(xvi.) The Public Health (Ports) Act, 1896, enables the Local Government Board to assign port sanitary authorities powers and duties under Infectious Disease (Prevention) Act, 1890.

(xvii.) The Public Health Acts Amendment Act, 1907, relates to various sanitary matters, infectious diseases, common lodging-houses, and recreation grounds. This Act is only applicable by order of the Local Government Board.

(xviii.) The Public Health Act, 1908, extends to rural

districts urban powers as to provision and regulation of markets.

In consulting the foregoing statutes, three points must always be borne in mind—

(i.) The authorities for the administration of the greater part of public health law are classified into urban and rural, the former administrating the thickly populated districts, and the latter the more purely agricultural regions. It is recognised that urban sanitary needs are greater than rural, and therefore, although a large number of public health powers are conferred upon urban and rural authorities in common, other powers are conferred upon urban authorities alone. At the same time, as a rural district or some part of it increases in the density of its population, its sanitary needs and ambitions tend to approximate to those of an urban district, and in many cases it is difficult to draw a hard and fast line between the public health requirements of an urban and a rural district. In other words, districts nominally rural are sometimes populous, and may require urban powers. To meet such cases, sect. 276 of the Public Health Act, 1875, and sect. 25 of the Local Government Act, 1894, were framed to enable the Local Government Board to confer urban powers upon rural authorities. (See further, *post*, Ch. III.)

(ii.) Not all of the provisions of our sanitary enactments are compulsory. While some confer duties, others merely confer powers the exercise of which is optional upon the authority. Again, some of these optional provisions become compulsory if the Local Government Board so orders. The reader must distinguish clearly between a provision commencing, *e.g.*, "Every local authority shall," and one commencing "Any local authority may," or "Any local authority may, and if required by the Local Government Board shall." Finally, there are certain Acts or parts of Acts which are of an "adoptive" nature, *i.e.*, the application of such an Act or part of Act depends upon its adoption by the local authority. For example, the Public Health Acts Amendment Act, 1890, is mainly adoptive, the adoptive parts being able to be adopted to different extents by urban and rural authorities respectively.

(iii.) Speaking generally, the above-mentioned statutes do not apply to London, although similar provisions under corresponding statutes exist for the Metropolis (see *infra*, p. 7, and *post*, Ch. XXII.).

Cognate Statutes.—The Public Health Acts are only the centre and trunk of a large mass of legislation framed with a similar purpose, and forming part of the provision made by the Legislature for the sanitary welfare of the masses. For example, the sewerage and drainage provisions of the Public Health Acts find an extension in the Rivers Pollution Prevention Acts, 1876 and 1893, and the Rivers Pollution Prevention (Border Councils) Act, 1898; those relating to infectious and epidemic diseases, in the Epidemic and other Diseases Prevention Act, 1883, the Infectious Disease (Prevention) Act, 1890, the Infectious Diseases (Notification) Acts, 1889 and 1899, and the Diseases of Animals Acts, 1894 to 1911; those relating to hospitals, in the Isolation Hospitals Acts, 1893 and 1901; those relating to the supply of food, in the Public Health (Regulations as to Food) Act, 1907, the Sale of Food and Drugs Acts, 1875 to 1907, the Sale of Horseflesh, &c. Regulation Act, 1899, and the Fertilisers and Feeding Stuffs Act, 1906; those relating to mortuaries and interments, in the Burial Acts, 1852 to 1906, and the Cremation Act, 1902; and those relating to the constitution of the sanitary authorities in the Local Government Act, 1894.

There are also to be reckoned, the Canal Boats Acts, 1877 and 1884; the Vaccination Acts, 1867 to 1898, and 1907; the Housing of the Working Classes Acts, 1890 to 1909; the Factories and Workshops Acts, 1901 and 1907; the Baths and Washhouses Acts, 1846 to 1899; the Local Education Authorities (Medical Treatment) Act, 1909; the Housing, Town Planning, &c. Act, 1909; the National Insurance Act, 1911; and a number of minor enactments unnecessary to be mentioned in this place.

Even these would not exhaust the list of statutes bearing directly or indirectly upon the subject of public health. Indeed, it would be difficult to know where to draw the line in

the preparation of such a list. For instance, the legislation regulating the sale of intoxicating liquor has obviously a powerful bearing upon the national hygiene, and this example could be multiplied almost indefinitely. Yet they must be regarded as beyond the scope of the present treatise.

Private Acts and Provisional Orders.—Hitherto in this chapter we have referred only to the class of Acts styled "public." But large extensions of public health powers are to be found in the various "private" or "local" (*b*) Acts promoted by local authorities. A striking instance is furnished by the London Building Act, 1894 (regulating the construction of buildings in the Metropolis), which contains 218 sections and which repeals and re-enacts in consolidated form, with amendments in whole or part, no less than fourteen other statutes mostly "public," and yet is itself a "private" Act. To this class of enactment may be added the Provisional Orders made by some Government department in pursuance of powers given by some statute so as to enable local authorities to dispense with the delay and expense attendant upon the obtaining of a private Act and at the same time to relieve Parliament from the congestion of work that would ensue if a private Act were necessary in every case. These Provisional Orders, as a rule, have not themselves the full force of statutes until they have received confirmation by Parliament, which is given by a public statute obtained at the instance of the department which granted the Provisional Order, styled a Provisional Orders Confirmation Act, and which, as a rule, is passed by Parliament as a matter of course. Several sections of the Public Health Act, 1875, enable the Local Government Board to grant Provisional Orders at the instance of local authorities (see, *e.g.*, sect. 161, enabling local authorities thus to obtain powers relating to street lighting (*c*)).

(*b*) For definition of and other information relating to "private" and "local" statutes, consult Encyclopædia of the Laws of England, tit. "Private Bill Legislation."

(*c*) For further information as to provisional orders, see Encyclopædia of the Laws of England, tit. "Provisional Order."

General Orders, &c.—A student who confined his researches to the various Acts, whether public or private, alone, would get an imperfect idea of the extent of the statute law relating to the subject of public health. Large extensions are to be found in the general orders made by the Local Government Board and other departments in pursuance of enabling legislative provisions. An instance of a general order is to be found in the Local Government Board's order of 1878, made in pursuance of the Canal Boats Act, 1877, which provides, *inter alia*, for the registration of canal boats and for the sanitary regulation thereof. Such rules, regulations, and orders, if duly made in accordance with their enabling provisions, have full statutory effect (*d*).

Byelaws.—Further extensions of the statutes relating to public health are contained in the byelaws made by the local authorities themselves under the provisions of the Public Health and other Acts. Such byelaws must comply with certain conditions as to form, substance, and scope, and must be confirmed by the central government acting through the appropriate department (usually the Local Government Board) before they become operative; but when duly made and confirmed they have the same force as an Act of Parliament within the district to which they apply (*e*).

London.—In the matter of public health, as in most other matters of local government, London stands apart from the rest of the country, and is regulated largely, if not entirely, by a series of public and private Acts, Orders, and Byelaws of its own (see further, *post*, Ch. XXII.).

(*d*) For the contents of the general orders made by the Local Government Board and other departments, see Lumley's Public Health, where they are classified under the headings of, *inter alia*, Canal Boats, Cemeteries, Cholera, Yellow Fever and Plague, Cremation, Dairies, Cowsheds and Milkshops, Diseases and Hospitals, Factories and Workshops, Food and Drugs, Slaughter Houses, and so forth.

(*e*) For general information relating to byelaws, see Encyclopædia of the Laws of England, tit. "Byelaws."

CHAPTER II.

THE PUBLIC HEALTH AUTHORITIES.

The authorities which administer the statutes relating to public health in their respective areas are as follows:—(i.) The Local Government Board (and certain other government departments; (ii.) the county councils; (iii.) the municipal corporations (including the county boroughs); (iv.) the urban district councils; (v.) the rural district councils; (vi.) the parish councils (and parish meetings); (vii.) the boards of guardians; (viii.) the insurance committees; (ix.) certain miscellaneous bodies.

(i.) The Local Government Board was the creation of the Local Government Board Act, 1871, the object of which was expressed to be the concentration in one department of the government the supervision of the laws relating, *inter alia*, to public health, and which vested in the Board, *inter alia*, all the then powers and duties of the Privy Council relating to vaccination and the prevention of disease, and all the then powers and duties of the Home Office in relation to public health, drainage and sanitary matters, baths and washhouses, public and town improvements, and artisans' and labourers' dwellings. The head of the Board is the President, who is invariably a member of the Cabinet, and in him is vested virtually the whole power of the Board, the remaining members being such merely in name. The President is assisted by a Parliamentary Secretary and a permanent staff (medical and otherwise), at the head of which is the Permanent Secretary. Since its creation the scope of the Board has been in a continuous process of enlargement, partly due to the transfer to it of work

from other departments and partly due to legislation conferring fresh powers and duties. In relation to public health the Board is the general supervisory authority. Its functions in that connection may be divided into those which are (a) legislative, (b) administrative, (c) financial, (d) advisory, and (e) informative, respectively.

(a) The legislative functions of the Board are to be found in its powers of making orders (provisional and otherwise), rules, and regulations in pursuance of various statutes enabling thereto, and which when made have substantially the same force as the statutes themselves. Instances are the regulations made under the Burial Acts, subjecting the management of cemeteries to conditions protective of health, and under the Canal Boats Acts for securing sanitary conditions for persons living on canal boats; and the orders made under the Acts relating to infectious diseases (*f*). The Board is also a party to the sub-legislation made by the local authorities themselves in the shape of byelaws under the Public Health Acts, inasmuch as such byelaws cannot become effective without the approval of the Board.

(b) Examples of the functions of the Board in the domain of administration are to be found in the provisions scattered throughout the Public Health Acts, giving the Board power to force the local authorities to undertake various duties. Thus urban authorities may be ordered by the Board to undertake the removal of house refuse and the cleansing of footways. The Board's sanction is also required to the appointment of certain officials, *e.g.*, medical officers of health and sanitary inspectors by borough councils, and in some instances to their dismissal, as in the case of the county medical officer of health. Virtually the Board's consent is required to private bills promoted by local authorities, as no such measure can hope to get through Parliament if opposed by the Board.

(c) The functions of the Board in relation to public health finance are to be found first in its compulsory audit of the

(*f*) These general orders are, so far as they relate to public health, set out in Lumley's Public Health, Vol. II.; see note (*d*), *ante*, p. 7.

accounts of all local authorities (with some exceptions) directed to the detection and prevention of illegal expenditure, and secondly, in the necessity of its sanction of local loans, a sanction in all cases required, except where the money is borrowed under local Acts, in which cases the power of the Board is exerciseable in the manner indicated in (b). Whenever a local authority applies for the approval of the Board to a loan, the Board requires it to supply detailed particulars as to the manner in which it is proposed to expend such loan, and the Board is careful to satisfy itself that the work for which the sanction of the loan is sought is reasonably required, that due regard is being paid to economy, and that the cost of the work has been properly estimated. Also with the view of obtaining full information on these points, and of affording all persons interested an opportunity of being heard on the subject, local inquiries are held by the Board's inspectors in a large number of cases, public notice of any such inquiry being given in the district. The Board also insists upon being informed of the arrangements made for the due discharge of the debt.

(d) The Board is ready to give guidance to any local authority in the performance of its public health duties, and for this purpose, among others, it maintains a staff of highly skilled medical men, engineers, and architects, who are at the constant service of local authorities desiring advice, technical, scientific, or otherwise. By the Public Health and Local Government Conferences Act, 1885, local authorities may incur the expense of and in connection with conferences between local authorities, subject to regulations made by the Board (*g*).

(e) Finally the Board receives a constant stream of information in the shape of returns by various local authorities, and this, together with the information obtained by it in other ways, such as by correspondence with local authorities, its various inspectors, and in other ways, it collates and issues in the shape of reports. The most important of these reports is the annual report which the Board is compelled to lay

(*g*) Such Regulations have been made and are set out in Vol. II. of Lumley's Public Health.

before Parliament, and which is a mine of information, statistical and otherwise, upon the matters with which it deals, including those touching the problems of public health.

In addition to the Local Government Board, other Government departments are also concerned in the matter of public health, although to a much smaller extent. The HOME OFFICE has in its charge the administration of the Factory Acts, and local sanitary authorities are subject to its supervision in the pursuance of their duties relating to domestic factories, workshops, and workplaces. The Home Office has also the general administration of the Burial Acts, although the framing of certain regulations regarding burial places is vested in the Local Government Board. Housing schemes in the Metropolis have to receive the approval of the Home Office, and also byelaws made by local authorities relating to the employment of children under the Children Act, 1908. The BOARD OF EDUCATION is concerned with schemes for the improvement of the health of children in the public elementary schools. The BOARD OF TRADE comes into contact with public health in connection with various trading undertakings of local authorities; *e.g.*, it has the issue of licenses for the provision of electric lighting, and proposals for the supply of water have to come before it as well as the Local Government Board. The BOARD OF AGRICULTURE has, *inter alia*, the administration of, and the making of orders under, the Diseases of Animals Acts. Finally, the TREASURY is largely concerned in the administration of the National Insurance Act, 1911.

(ii.) THE COUNTY COUNCILS exist by virtue of the Local Government Act, 1888. The council of the administrative county is the supervisory authority in sanitary matters within the county, except in the areas of boroughs and county boroughs, Its power varies greatly, however, in relation to urban districts and rural districts respectively. As to the former it cannot go beyond representations to the Local Government Board; as to the latter it can, upon the complaint of the parish authority that a rural district is neglectful of its duties under the Public Health Acts, and more particularly sewerage or water supply, itself perform such duties or alternatively

authorise others to perform them at the expense of the rural district council. It has also powers of control over the district authorities in respect of rivers pollution and isolation hospitals. County councils also administer the Acts relating to diseases of animals, the sale of food and drugs, and fertilisers and feeding stuffs. They may make byelaws for the suppression of nuisances. By the Housing and Town Planning, &c. Act, 1909 (Part III.), every county council is now bound to appoint a medical officer of health to perform such duties as may be prescribed by General Order of the Local Government Board, or as may be assigned to him by the council, and he is to have the same powers of entry on premises as the medical officer of health of a district council (sect. 68), and such last-mentioned officer must give him all proper information for the purpose of his duties (sect. 69). In London, "Metropolitan borough" is to be substituted for "district" in the foregoing statement (sect. 70). Every county council must establish a public health and housing committee, which must report to the council upon any matter relating to public health and housing of the working classes before the council can exercise its powers in relation thereto (except matters of urgency), and the council may delegate to such committee any of its said powers except that of resolving to transfer to the council the powers of a defaulting district council (sect. 71).

(iii.) MUNICIPAL CORPORATIONS are governed as regards their constitution and general powers by the Municipal Corporations Act, 1882, and amending Acts. In matters of public health they comprise, together with the urban district councils, the Urban Sanitary Authorities, and their sanitary powers are therefore dealt with under that head (*h*) (see further, *post*, Ch. III.).

(*h*) The county boroughs, the creation of the Local Government Act, 1888, and succeeding Private Acts and Provisional Orders, are to be regarded as municipal corporations for the purpose of their inclusion in the expression "urban sanitary authority." They differ from municipal corporations only in possessing any powers belonging to county councils beyond those possessed by municipal corporations. They are therefore, roughly, county and borough rolled into one.

(iv.) URBAN DISTRICT COUNCILS are constituted by the Local Government Act, 1894, and represent the previously existing local boards of health and improvements commissioners. Their powers are mainly derived from the Public Health Acts. Together with the municipal corporations (including councils of the county boroughs) they constitute the Urban Sanitary Authorities (see, further, *post*, Ch. III.).

(v.) RURAL DISTRICT COUNCILS are the authorities in those areas into which each county is divided, exclusive of the boroughs and urban districts. Their constitution is derived from the Local Government Act, 1894, and like the urban district councils, their main functions relate to public health. They constitute the Rural Sanitary Authorities (see, further, *post*, Ch. III.).

(vi.) PARISH COUNCILS and PARISH MEETINGS are the authorities in the rural parishes, that is, those parishes which lie within the rural district. The test as to whether any area constitutes a parish, is whether it is "a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed." (Interpretation Act, 1889, s. 5.) Parish councils and parish meetings are the creation of the Local Government Act, 1894. A rural parish must have a council if its population be 300. It may have one if its population be 100; it may have one if its population be less than 100, with the consent of the County Council. Otherwise it is governed by the parish meeting. Parish councils have substantial public health powers. They may exercise the powers given to urban authorities by the Public Health Acts in respect of open spaces, greens, walks, and recreation grounds. They may utilise any sources of water supply which they may have. They have powers of draining, cleansing, covering, or otherwise dealing with, ponds, pools, open ditches, drains or other spaces containing or used for the collection of drainage, filth, stagnant water or other matter likely to be prejudicial to health. Where there is no council, the parish meeting may exercise these powers in some cases with, in other cases without, the authority of the county council. Parishes may also adopt certain adoptive Acts relating to lighting and watching, baths and washhouses,

burial, public improvements and public libraries. A parish council or meeting possesses powers of complaint to the county council that the rural district council is neglecting its duty in respect of provision of sewers or water supply, or generally in the enforcement of the Public Health Acts within the parish. Similar powers of complaint exist in respect of the Housing of the Working Classes Acts, 1890 to 1909 (sect. 12 of the Housing and Town Planning Act, 1909). A parish council may also have delegated to it by the rural district council powers of the latter under the Public Health Acts. By the combined operation of sect. 202 of the Public Health Act, 1875, and sect. 15 of the Local Government Act, 1894, a rural district council may delegate to a parish council any of its own powers suitable to be exercised by the latter.

(vii.) Boards of Guardians are the authorities in the Poor Law Unions, created under the Poor Law Amendment Act, 1834. Their public health powers are in relation to medical attendance and hospital assistance by way of poor relief. Practically their only public health function that applies to the community generally is that of the administration of the Vaccination Acts, a survival of the days when the Boards of Guardians were general public health authorities.

(viii.) The Insurance Committees under the National Insurance Act, 1911, are dealt with *post*, Ch. XX.

(ix.) Miscellaneous Bodies. (a) Port Sanitary Authorities are those created as such by the Local Government Board by Provisional Order under the Public Health Act, 1875, sects. 287—292, or by Order under the Public Health (Ships, &c.) Act, 1885, s. 3. By these provisions the Local Government Board can constitute into a "Port Sanitary Authority" for the whole or any part of a port any local authority whose district, or part of whose district, forms part of or abuts on a port, or any conservators, commissioners, or other persons having authority over such a port or any part thereof, or may combine two or more of such bodies into a joint board to act as such port authority over one or more ports. Practically the whole of the existing port sanitary

authorities that are not joint boards are councils of boroughs or of urban district councils. Sect. 287 aforesaid provides that "a port shall mean a port as established for the purposes of the laws relating to the Customs of the United Kingdom." Such establishment rests with the Treasury by sect. 11 of the Customs Laws Consolidation Act, 1876. The order constituting a port sanitary authority may invest it with any of the functions created by the Public Health Acts. By the Public Health (Ports) Act, 1896, the Local Government Board may assign to any port sanitary authority any functions under the Infectious Disease (Prevention) Act, 1890. (b) BURIAL BOARDS were bodies of from three to nine members elected by the parish vestry under the Burial Acts for the administration of those statutes. By the effect of the Public Health Act, 1875, and the Local Government Act, 1894, very few burial boards exist apart from the councils of boroughs, districts and parishes, these various authorities having been originally invested with or having since obtained powers to transfer to themselves the functions of, or to constitute themselves, burial boards. (c) COMMISSIONERS OF SEWERS AND DRAINAGE BOARDS. The former of these two classes of authorities are formed under the Sewers Commissions Acts, which provide for the appointment by the Crown of Courts of Commissioners of Sewers for districts fixed in the appointment. Their function is to provide arterial drainage for the prevention of floods and the removal of superfluous moisture from the land. Drainage boards are created by provisional order of the Local Government Board in virtue of the Land Drainage Act, 1861. They are elective authorities with the function of providing a combined system of drainage, warping, or irrigation for districts that require it. (d) In addition to the foregoing there are a number of authorities to some extent separate from the urban or rural sanitary authorities constituted by the Local Government Board under sects. 279—286 of the Public Health Act, 1875, which provide, *inter alia*, that the Local Government Board may form any urban or rural districts or parts thereof into UNITED DISTRICTS for the purposes of water supply, sewerage, or any other purpose of the Act. By virtue

of these provisions and of various private Acts, there exist various joint hospital boards, joint water boards, &c., carrying out co-operatively public health functions in different parts of the country.

London.—The Metropolitan authorities are dealt with *post*, Ch. XXII.

CHAPTER III.

THE URBAN AND RURAL SANITARY AUTHORITIES.

(1) *Distinction between Urban and Rural Sanitary Authorities.*

Outside the Metropolis the greater part of sanitary administration, and in particular the administration of the Public Health Acts, is vested in two sets of authorities called urban and rural respectively. Sect. 5 of the Public Health Act, 1875, provided that England, except the Metropolis, should be divided into urban and rural sanitary districts, and that in each of such districts, there should be an authority, urban or rural, as the case might be, invested with the powers mentioned in the Act. By the joint operation of the above statute and of the Local Government Act, 1894, the urban sanitary authorities are the municipal corporations, *i.e.*, the councils of boroughs (*i*) (including those of the county boroughs) and the councils of urban districts; while the rural sanitary authorities are the councils of rural districts. The public health powers and duties possessed by these two sets of authorities differ substantially, the urban possessing far greater than the rural. It may be stated that the powers of urban sanitary authorities not possessed by rural sanitary authorities are roughly in relation to (i.) the maintenance, cleansing and scavenging of streets and roads, (ii.) lighting, (iii.) the provision of baths and wash-

(*i*) In other words, for the purposes of public health administration, a borough (or county borough) is an urban sanitary district, or more simply an urban district.

houses, (iv.) the regulation of traffic, (v.) town improvements generally. In the present connection two matters must be borne in mind, the one tending to accentuate the distinction between urban and rural sanitary authorities and the other tending to diminish it.

(i.) Urban sanitary authorities can and do increase their powers largely by means of private Acts. Rural sanitary authorities, on the other hand, have no power to promote private bills.

(ii.) With the aid of the Local Government Board, rural sanitary authorities can obtain all or any of the powers of urban sanitary authorities, and the provisions thus enabling (which have been largely taken advantage of) are principally as follows:—(a) By sect. 276 of the Public Health Act, 1875, the Local Government Board may, on the application of the authority of a rural sanitary district, or on the application of persons within it representing one-tenth of the net rateable value of the district, declare any provisions of the Act in force in urban sanitary districts to be in force in such rural sanitary district. (b) Sect. 25 (7) of the Local Government Act, 1894, provides that the powers conferred on the Local Government Board by sect. 276 of the Public Health Act, 1875, or by any enactment applying that section, may be exercised on the application of a county council or of a parish council. This means that the urban powers will be conferred on the rural district council, not upon the county council or parish council. Rural district councils, however, may delegate powers to parish councils (see *ante*, Ch. II., p. 14). (c) The Local Government Act, 1894, s. 25 (5), provides that the Local Government Board may by general order confer any urban powers, duties or liabilities under the Public Health Acts or any other Act upon rural district councils generally. (d) The Public Health Acts Amendment Act, 1890, by sect. 5 provides that the Local Government Board may declare that any of the provisions contained in any part of that Act which are not in force in any rural sanitary district shall be in force in that district or any part thereof, and may invest a rural sanitary authority with any of the functions which an urban sanitary

authority may acquire by the adoption of any part of that Act, in accordance with the provisions of sect. 276 of the Public Health Act, 1875 (*supra*, p. 18). (e) By sect. 4 of the Private Streets Works Act, 1892, the Local Government Board may declare that the provisions of the Act shall be in force in any rural sanitary district or any part thereof, and may invest a rural sanitary authority with any functions which a sanitary urban authority may acquire by the adoption of the Act.

The converse of the foregoing power of conferring urban powers on rural authorities is to be found in the Public Health (Water) Act, 1878, which applies generally to rural authorities, but which provides by sect. 11 that the Local Government Board may invest an urban sanitary authority with all or any of the powers and duties given by the Act to a rural sanitary authority.

(2) *Some General Provisions relating to Urban and Rural Sanitary Authorities.*

The following provisions relating generally to *urban* and *rural* sanitary authorities contained in Part V. of the Public Health Act, 1875, may be noted:—

Contracts.—*Urban* and *rural* sanitary authorities may enter into any necessary contracts (sect. 173).

With respect to contracts made by *urban* sanitary authorities the following regulations must be observed, namely, (1) where the contract exceeds £50 in value or amount it must be under seal; (2) such contract must specify the work, materials, &c., the price and time of performance, and must also provide for a penalty in case of breach; (3) before contracting for works the authority must obtain a report and estimate from their surveyor; (4) if the contract exceeds £100 in value or amount, ten days' public notice must be given and tenders invited; (5) such contract binds the successors of the authority, and in the case of the other parties their executors, administrators, successors or assigns (sect. 174).

Purchase of Lands.—An *urban* or *rural* sanitary authority may purchase, take on lease, sell, or exchange lands whether within or without their district (sect. 175).

For the purpose of the purchase of lands the Lands Clauses Consolidation Acts are to apply (sect. 176).

Urban and *rural* sanitary authorities may, with the consent of the Local Government Board, let spare lands (sect. 177) (*j*).

Arbitration.—In case of dispute as to the amount of any compensation to be paid (except where the mode of determining the same is specially provided for), and in case of any matter authorised or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator (sect. 179).

The regulations to be observed in the arbitration are contained in sect. 180, which forms a complete code for such purpose.

Where a claim is under £20 the dispute may be determined at the option of either party by a Court of summary jurisdiction instead of by arbitration (sect. 181).

Byelaws.—Byelaws must be made under common seal, and may be altered or repealed by a subsequent byelaw. No byelaw, however, shall be of any effect if repugnant to the general law or to the provisions of the statute (sect. 182).

Byelaws may impose reasonable penalties against offenders not exceeding, however, £5 for each offence, and in case of a continuing offence a further penalty not exceeding forty shillings a day (sect. 183).

Byelaws are not effective until they have been confirmed by the Local Government Board. The Board must not confirm unless one month's notice of intention to apply for confirmation has been given in the local newspaper, and a copy of the proposed byelaws has been open to inspection for one month at the office of the authority (sect. 184). The fact that the Board has confirmed a byelaw will not make it valid if it be contrary to the general law, or even if it be unreasonable (see, *e.g.*, *Alty* v. *Farrell*, [1896] 1 Q. B. 636).

(*j*) Sect. 178 relates to lands in the Duchy of Lancaster.

Byelaws must be printed and hung up in the office of the authority, and a copy must be delivered on application to any ratepayer. In the case of *rural* sanitary authorities a copy must be sent to the overseers of each parish in the district (sect. 185).

A copy of the byelaws signed and certified by the clerk to be a true copy, and to have been duly confirmed, is evidence until the contrary is proved in all legal proceedings of the due confirmation and existence of such byelaws without further proof (sect. 186). This is not to apply to councils of boroughs, as to which sect. 24 of the Municipal Corporations Act, 1882, provides that the production of a written copy of a byelaw, if authenticated by the corporate seal, shall, until the contrary is proved, be sufficient evidence of the due making and existence of the byelaw and, if it is so stated in the copy of the byelaw, of its having been approved or confirmed by the proper authority.

The foregoing provisions relating to byelaws shall not apply to *regulations*, although the authority may cause such regulations to be published in such manner as they think fit (sect. 188). For an instance of such regulations, see sect. 21 of the present Act (*post*, p. 31), and sect. 20 of the Public Health Acts Amendment Act, 1890 (*post*, p. 43). Some regulations, however, require the approval of the Local Government Board, *e.g.*, those under sect. 125 of the present Act (*post*, p. 89).

Officers.—Every *urban* sanitary authority must appoint a medical officer of health, surveyor, inspector of nuisances, clerk, and treasurer; and also such assistants, collectors, and other officers and servants as may be necessary (sect. 189).

Every *rural* sanitary authority must appoint a medical officer or officers of health, and an inspector or inspectors of nuisances, and also such assistants and other officers and servants as may be necessary (sect. 190).

A person must not be appointed medical officer of health unless he is a legally qualified practitioner. The same person may, with the sanction of the Local Government Board, be appointed medical officer of health or inspector of nuisances

for two or more districts. In the case of illness or incapacity of the medical officer, a deputy medical officer may be appointed subject to the approval of the Local Government Board (sect. 191).

The same person may be both surveyor and inspector of nuisances. Neither the treasurer nor his partner, nor any person in their service, may hold or assist in the office of clerk. Neither the clerk nor his partner, nor any person in their service, may hold or assist in the office of treasurer (sect. 192).

Officers or servants of an authority must not be interested in any contract made with the authority (sect. 193). With respect to the penalties imposed by this section, it is provided by the Public Health (Officers) Act, 1884, that proceedings for the recovery thereof must not be taken except with the consent of the Attorney-General. The section is further amended by the Public Health (Members and Officers) Act, 1885, which provides that an officer or servant may be interested in a contract with the authority (a) for the sale, purchase, leasing, or hiring of land, rooms, or offices, or (b) as shareholder in a joint stock company; provided, however, that in the case of (a) the contract be made with the consent of two-thirds of the members of the authority present at a meeting held after seven days' notice published in a local newspaper, and that notice shall have been sent in writing to every member, stating the nature of the contract and the time and place of the meeting at which the question is to be considered (sect. 194).

Duty to enforce Law.—The Local Government Board may upon complaint that a local authority is in default in the provision or maintenance of sewers or in enforcing any other duty which the Act imposes on them, order the duty to be performed, and in case of non-compliance such order may be enforced by writ of mandamus (*k*), or the Board may appoint some person to perform such duty and charge the same to the local authority (sect. 299). Mention may also be made here of a provision of general application contained in the Housing of the Working Classes Act, 1885, namely sect. 7, which provides that "it shall be the duty of every local authority entrusted with the execution of laws relating to public health and local government to put in force from time to time as occasion may arise, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under the control of such authority."

(*k*) For information relating to the prerogative writ of mandamus, see Encyclopædia of the Laws of England, tit. "Mandamus," and for procedure thereon, see Wrottesley and Jacobs' Criminal Appeals, Ch. VII.

CHAPTER IV.

GENERAL SANITATION (I.).

UNDER this head it is intended to deal with those sanitary provisions which, in the Public Health Act, 1875, are arranged under the headings of Sewerage and Drainage, Privies, Water-closets, &c., and Scavenging and Cleansing. An examination of that Act will show that the topics treated of under these headings are not clearly separated. Indeed, it is probably impossible to keep them separate, nor, for the purposes of this work, does it appear to be necessary or desirable to attempt to do so.

The principal statutory provisions relating to the above topics are to be found in sects. 13—50 of Part III. of the Public Health Act, 1875, the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883, sects. 16—22 and 24—27 of Part III. of the Public Health Acts Amendment Act, 1890, and sects. 34 and 36—49 of Part III. of the Public Health Acts Amendment Act, 1907. Connected also with the present subject are the Rivers Pollution Prevention Acts. They bear, however, more closely upon the subject of water supply (*post*, Ch. VII.), where they will be found dealt with.

Of the above provisions, by far the most important are those relating to sewerage and drainage, and it is therefore desirable to give preliminary treatment to the meanings of "drain" and "sewer" respectively, and of the distinction between them.

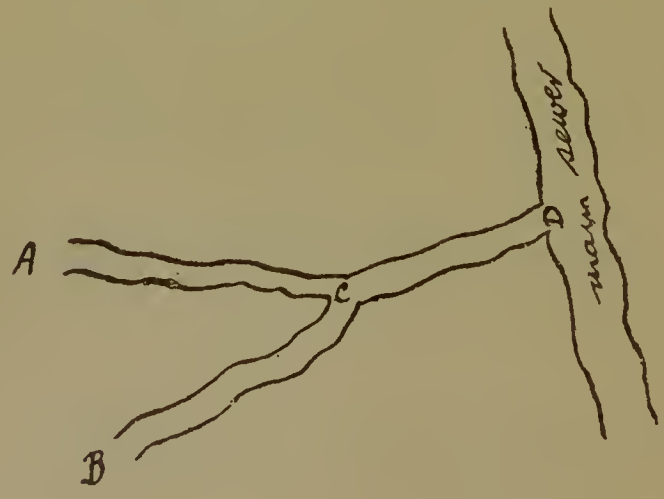
Distinction between Drain and Sewer.—The popular usage of the expressions "drain" and "sewer" appears to draw no substantial distinction between them, nor is any such distinction to be derived with clearness from a study of their etymology (*l*). In public health law, however, the distinction

(*l*) Webster's International Dictionary derives "drain" from the Anglo-Saxon "drehnigean," and includes "sewer" among its meanings. On the other hand, among the meanings of "sewer" (which it derives from the Latin "exaquatorium," through the old French "sewiere," cp. "ewer"), it includes "drain."

in the user of the two words is of vital importance, its importance lying in this, that, as a rule, while the ownership and duty of maintaining drains are vested in the owner of the premises to be drained, the ownership and duty in regard to sewers are vested in the sanitary authorities. Sect. 4 of the Public Health Act, 1875, defines "drain" as meaning "any drain of and used for the drainage of one building only, from premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed," and in the same section "sewer" is defined as including "sewers and drains of every description, except drains to which the word 'drain' interpreted as aforesaid applies, and except drains vested in or under the control of any authority having the management of roads, and not being a local authority under this Act."

Apart from the exception in the definition of "sewer," the effect of these definitions "is, roughly, that a 'drain' is that which receives the drainage of one house, while a 'sewer' is that which receives the drainage of two or more." (Lumley's Public Health, 7th edit., Vol. I. p. 26.)

The distinction between a sewer and a drain may be illustrated thus:—



In the foregoing illustration, if AC and BC drain the same building, CD is a drain; if they drain different buildings, CD is a sewer.

"I cannot have any doubt as to the meaning of the Act [the Public Health Act, 1875]. It was to give the largest possible interpretation to the word 'sewer'" (*Acton Local Board* v. *Batten* (1885), 54 L. J. Ch. 251; 28 Ch. D. 283; 52 L. T. 17; 49 J. P. 357).

It has been held that a drain passing through a private ground, but receiving the drainage of more than one building, is a sewer (*Travis* v. *Uttley*, 63 L. J. M. C. 48; [1894] 1 Q. B. 233; 70 L. T. 242; 42 W. R. 461; 58 J. P. 85). It is not, however, a sewer from end to end, but only from and after the point where it receives the drainage of the two buildings (*Beckenham Urban District Council* v. *Wood* (1896), 60 J. P. 490, limiting the previous case).

Whether a culvert for conveying the drainage from more than one house is a "sewer" or a "drain" depends upon whether the houses do in point of fact constitute one building only or more than one (*Hedley* v. *Webb*, 70 L. J. Ch. 663; [1901] 2 Ch. 126; 84 L. T. 526; 65 J. P. 425; 17 T. L. R. 393).

Whether a pipe draining a pair of semi-detached houses is a "drain" or a "sewer" depends upon whether the houses form one building or not. As to whether they form one building, no general rule can be laid down, even though they be under one continuous roof. It is a question of fact dependent upon the circumstances of each case (*Humphrey* v. *Young*, 72 L. J. K. B. 6; [1903] 1 K. B. 44; 87 L. T. 551; 51 W. R. 298; 67 J. P. 34; 1 L. G. R. 142; 19 T. L. R. 20).

"Drains" not used for the drainage of one building only are "sewers," whether in fact they have carried sewage or not (*London and North Western Railway* v. *Runcorn Rural District Council*, 67 L. J. Ch. 324; [1898] 1 Ch. 561; 78 L. T. 343; 46 W. R. 484; 62 J. P. 634; 14 T. L. R. 331).

The word "drain" means a passage for sewage from a single house. The word "sewer" extends to any system of drainage; but neither word includes a reservoir or cesspool (*Sutton* v. *Norwich Corporation* (1858), 27 L. J. Ch. 739; 6 W. R. 432);

nor a cesspit (*Meades* v. *West Cowes Local Board*, 61 L. J. Ch. 561; [1892] 3 Ch. 18; 67 L.T. 454; 40 W. R. 676); but a cesspool may act as a catchpit, and form part of a sewer (*Pakenham* v. *Ticehurst Rural District Council* (1903), 2 L. G. R. 19; 67 J. P. 448).

A stream or watercourse may be a sewer or not, according to circumstances. For example, a stream passing through an estate receiving generally the natural drainage of the land, but receiving also the drainage of two or three houses, was held not to be a sewer (*Reg.* v. *Godmanchester Local Board* (1866), 5 B. & S. 936; 35 L. J. Q. B. 125; L. R. 1 Q. B. 328; 14 L. T. 184; 14 W. R. 375). On the other hand, where the sewage of certain houses drained into a sewer, and, after passing through the sewer, was for a period of some years allowed to fall into an open watercourse, which, in its turn, flowed into a brook, it was held that under the circumstances the watercourse was a sewer (*Wheatcroft* v. *Matlock Local Board* (1855), 52 L. T. 356).

A pipe may be a sewer, although it does not convey what is ordinarily known as sewage, *e.g.*, rain-water (*Holland* v. *Lazarus* (1897), 66 L. J. Q. B. 285; 61 J. P. 262; and *Silles* v. *Fulham Borough Council*, [1903] 1 K. B. 829; 67 J. P. 273; 72 L. J. K. B. 397; 88 L. T. 753; 51 W. R. 598; 19 T. L. R. 398).

Apparently, "once a sewer always a sewer," so long as it is used for the purpose of carrying sewage, so that the fact that a pipe which once carried the drainage of two or more houses has ceased to carry the drainage of more than one, the owner of the other house having diverted his sewage elsewhere, is not by itself sufficient to change the character of that pipe from a "sewer" to a "drain" (*St. Leonard, Shoreditch, Vestry* v. *Phelan*, 65 L. J. M. C. 111; [1896] 1 Q. B. 533; 74 L. T. 285; 44 W. R. 427; 60 J. P. 244—decided under sect. 250 of the Metropolis Local Management Act, 1855 (*m*)).

(*m*) The definition of "drain" and "sewer" in this section is similar to that in sect. 4 of the Public Health Act, 1875, except that in the metropolitan Act "drain" includes a drain for the drainage in combination

A tidal stream may be so used as to have become converted into a sewer (*Newcastle-upon-Tyne Corporation* v. *Houseman* (1898), 63 J. P. 85).

A conduit which was originally a natural stream may become a sewer if for a considerable period its substantial user has been to convey sewage and not to convey water (*West Riding Rivers Board* v. *Gaunt* (1902), 67 J. P. 183; 1 L. G. R. 133; 19 T. L. R. 140).

But the unlawful discharge of sewage into a natural stream will not turn the stream into a sewer (*ibid.*).

An open channel from the surface water drain running along a public road and receiving rain water from the abutting houses and surface water from the road is a sewer (*Wilkinson* v. *Llandaff and Dinas Powis Rural District Council*, 73 L. J. Ch. 8; [1903] 2 Ch. 695; 89 L. T. 462; 52 W. R. 50; 68 J. P. 1; 2 L. G. R. 174; 20 T. L. R. 30).

In order that a conduit may be a sewer it must be a line of flow by which sewage or other liquid matter, such as would be conveyed through a sewer, is conveyed from point to point and discharged at the latter, *i.e.*, it must have a terminus *a quo* and a terminus *ad quem* (*Pakenham* v. *Ticehurst Rural District Council* (1903), 2 L. G. R. 19; 67 J. P. 448).

The fact that a group of houses have a common access by means of a court and certain accommodation in common, such as ashpits and water-closets, does not bring such houses within the meaning of "premises within the same curtilage," so that a conduit for the drainage of such group is a "sewer" and not a "drain" (*Harris* v. *Scurfield* (1904), 91 L. T. 536; 2 L. G. R. 974; 68 J. P. 516; 20 T. L. R. 659; and see similarly *St. Martin-in-the-Fields Vestry* v. *Bird*, 64 L. J. Q. B. 230; [1895] 1 Q. B. 428; 14 R. 146; 71 L. T. 868; 43 W. R. 194; 60 J. P. 52—decided under the Metropolis Local Management Act, 1855).

of a group or block of houses under order of the local authority. For decisions on this part of the definition, see Lumley's Public Health, 7th ed., Vol. I., p. 34.

With reference to the exception contained in the above definition of "sewer" (*ante*, p. 24), it has been held that where before the Local Government Act, 1894, a sewer was vested in a highway authority which was not also a sanitary authority, and was consequently not a sewer within the Public Health Act, 1875, it did not become a sewer within the meaning of the latter Act by reason alone of its becoming vested by virtue of the former Act in a district council which is both highway and sanitary authority (*Williamson* v. *Durham Rural District Council*, [1906] 2 K. B. 65; 70 J. P. 352; 75 L. J. K.B. 498; 95 L. T. 471; 54 W. R. 509; 4 L. G. R. 1163; *Irving* v. *Carlisle Rural District Council* (1907), 71 J. P. 212). Substantially, the exception now comprises only sewers controlled by the county councils.

It may here be noted that where the Public Health Acts Amendment Act, 1890, applies, a certain kind of sewer is to be regarded as a drain for the purposes of sect. 41 of the Public Health Act, 1875 (*post*, pp. 35 and 36), and is called a "single private drain" (see sect. 19 of the former Act, *post*, p. 42).

Further Definitions.—In addition to those of "sewer" and "drain," we may indicate here the meanings of a few further expressions employed in the Public Health Acts, and which must be borne in mind in the succeeding chapters.

"Local authority" includes both *urban* and *rural* sanitary authorities (sect. 4 of the Public Health Act, 1875). For the meaning of "urban sanitary authority" or "district" and "rural sanitary authority" or "district" respectively, see Ch. III. (*ante*, p. 17).

"Person" includes all bodies corporate or unincorporate (sect. 4 of the Public Health Act, 1875).

"Owner" means the person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack-rent (sect. 4 of the Public Health Act, 1875). "Rack-rent" means, shortly, two-thirds of the full annual value of the premises (*ibid.*).

"House" includes schools and factories and other buildings

in which persons are employed (sect. 4 of the Public Health Act, 1875; and Factory Act, 1878, s. 107, and Sched. 6).

"Street" includes any highway, and any public bridge (not being a county bridge), and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not (sect. 4 of the Public Health Act, 1875).

"Earth-closet" includes any place for the reception or deodorisation of fœcal matter constructed to the satisfaction of the local authority (sect. 37 of the Public Health Act, 1875).

"Ashpit" includes any ash-tub or other receptacle for the deposit of ashes, fœcal matter, or refuse (Public Health Acts Amendment Act, 1890, s. 11 (1)).

"Inspector of nuisances" may be taken to include "medical officer of health," as it is provided by sect. 191 of the Public Health Act, 1875, that the latter may exercise any of the powers with which the Act invests the former.

"Private improvement expenses" are expenditure of an *urban* sanitary authority by which premises have specially benefited, and in respect of which the authority may levy a special rate called a "private improvement rate" for a period not exceeding thirty years, in addition to all other rates (see sect. 213 of the Public Health Act, 1875, *post*, p. 149).

"Sanitary convenience" includes urinals, water-closets, earth-closets, privies, ashpits, and similar conveniences (sect. 11 (3) of the Public Health Acts Amendment Act, 1890).

We now proceed to deal with the specific provisions of the four statutes referred to on p. 23. Chapter V. will be devoted to those of the Public Health Act, 1875, and the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883, while those of the Acts of 1890 and 1907 will be reserved for Chapter VI.

CHAPTER V.

GENERAL SANITATION (II.).

Public Health Act, 1875.—All sewers existing at the time the Act came into force, and all future sewers, are vested in and under the control of the local authority of the district of such authority, together with all buildings, works, materials and things belonging thereto, except (i.) sewers made for private profit, (ii.) sewers for draining land constructed under a local or private Act or for irrigation, (iii.) sewers under authority of Commissioners of Sewers (sect. 13).

A local authority may purchase or otherwise acquire from any person any sewer (or any right connected therewith) (sect. 14). This authorises the acquisition of sewers which are not vested in the local authority by virtue of sect. 13, *supra*.

A local authority must make such sewers as may be necessary for effectually draining the district, and must keep all sewers belonging to them in repair (sect. 15).

A local authority may carry any sewer through, across, or under any road or street, or under any cellar or vault under a street, and where necessary into, through, or under any lands whatsoever (sect. 16). For the purpose of outfall or distribution of sewage, all this may be done outside the district, subject to the provisions of sects. 32—34 (*post*, p. 34).

Sewage must not be discharged into any natural stream or watercourse, or into any canal, pond, or lake without being purified (sect. 17).

A local authority may alter any of its sewers, and may also discontinue any on condition of substituting one equally effective (sect. 18).

Authorities must see that their sewers do not constitute a

nuisance, or be injurious to health, and keep them properly cleansed and emptied (sect. 19). This section does not impose an absolute duty, but only one to use reasonable care and diligence in the performance of it (*Bateman* v. *Poplar District Board of Works* (No. 2) (1887), 37 Ch. D. 272; 57 L. J. Ch. 579; 58 L. T. 720; 36 W. R. 501 (decided on sect. 72 of the Metropolis Local Management Act, 1855, where the obligation is similar); and *Fergussen* v. *Malvern Urban District Council* (1908), 72 J. P. 273).

An *urban* sanitary authority may provide a map indicating an effective system of sewerage, and if this is done, such map must be open for inspection by the ratepayers at reasonable times (sect. 20).

Owners or occupiers are entitled to join their drains into the sewers of the local authority, the work to be subject to the superintendence of the local authority. Persons are forbidden under penalties to join a drain to a sewer except under the regulations and control of the local authority, and the local authority may disconnect such drain (sect. 21).

Owners or occupiers of premises outside the district of a local authority may join their sewers or drains to the sewers of such local authority on such terms and conditions as may be agreed, or, at the option of owner or occupier, may be settled by a Court of summary jurisdiction or by arbitration under the Act (*n*) (sect. 22).

A local authority may, on reasonable notice in writing, require the owner or occupier of any insufficiently drained house to make a drain emptying into a sewer not more than a hundred feet from such house, or if there be no such sewer, then into such cesspool or other place as the local authority may direct. The drain must be of such materials and size and of such level and with such fall as the local authority may deem necessary on the report of its surveyor. If such notice is not complied with, the local authority may do the work itself and recover the expenses from the owner in a summary manner, or may

(*n*) The arbitration provisions are contained in sects. 179—181, *ante*, p. 20.

declare same to be "private improvement expenses" (*o*). If it considers that expense will be saved thereby, the local authority may construct a new sewer for the purpose of receiving the drains of two or more houses, and apportion the expense of such new sewer between the owners (sect. 23).

Where a house has a sufficient drain communicating with the sewer, but such drain is not adapted to the general sewerage system of the district, or is, in the opinion of the authority, otherwise objectionable, the local authority may close such drain, but it must at its own expense substitute an equally effective drain or drains (sect. 24).

In an *urban* sanitary district it is unlawful to build or rebuild a house without such drainage as the authority may consider necessary on the report of their surveyor. Such drainage must empty into a sewer if there is one within a hundred feet; otherwise into a cesspool or other place as the local authority may direct (sect. 25).

A person is subject to penalties who, in an *urban* sanitary district, (i.) causes a building to be erected over a sewer belonging to the authority, or (ii.) causes any vault, arch, or cellar to be constructed under the carriage-way of the street. Furthermore, the authority in such district may alter, pull down, or otherwise deal with such building or construction, and recover the expense from the offender (sect. 26); but in so doing the authority must not interfere with anything not part of that particular structure (*Walker Urban District Council* v. *Wigham* (1901), 66 J. P. 152; 85 L. T. 579). Prohibition (ii.) is to prevent interference with any future sewer.

For the purpose of disposing of its sewage a local authority may construct works, purchase, lease, or hire land, buildings or plant, or contract to supply sewage for any period not exceeding twenty-five years, and as to works for the purposes of such supply all this may be done either within or without the district (subject in the latter case to the provisions of sects. 32—34, *post*, p. 34); but no nuisance must be created in the doing thereof (sect. 27). See further, sect. 30, *infra*.

(*o*) For meaning, see *ante*, p. 29.

A local authority may, with the consent of the Local Government Board, agree with the authority of any adjoining district for the communication of the sewers of the former with those of the latter. In case of dispute as to conditions the same may be settled by the Local Government Board. So far as practicable, storm water must be prevented from flowing into the sewers of the receiving authority. The receiving authority shall not be bound to receive with the sewage of the authority with whom they agree the sewage of any third authority. In other words, if authority B. has agreed with authority A. to receive A.'s sewage, and authority C. has agreed with authority B. to receive B.'s sewage, authority B. shall see that the sewage of authority A. shall not pass into the sewers of authority C. through the sewers of authority B. (sect. 28). Apparently this will not enable an authority in London to arrange to receive the sewage of an authority outside London (*Vestry of St. Mary, Islington* v. *Hornsey Urban District Council*, [1900] 1 Ch. 695; 69 L. J. Ch. 324; 82 L. T. 580; 48 W. R. 401—decided in connection with sect. 61 of the Metropolis Management Amendment Act, 1862).

A local authority may deal with land held by them for the purposes of sewage disposal in such manner as it deems most profitable, either by leasing for not more than twenty-one years for agricultural purposes or by farming it, or by disposing of the produce. Provision must be made, however, for effectually disposing of the sewage without creating a nuisance (sect. 29).

Where a local authority enters into an agreement with a person for the supply or distribution of its sewage it may contribute to the expense of the works, and where such person is a company may take shares therein (sect. 30). This supplements sect. 27 (*ante*, p. 32).

The making of works for the supply of sewage for agricultural purposes is an "improvement of land" within the Improvement of Land Act, 1864 (sect. 31). This and certain

cognate statutes enable improvements to be carried out on lands in the possession of tenants for life or other limited owners, and the cost thereof to be a charge on such land (*p*).

When a local authority desires to carry out sewage works without its district, it must give three months' notice by advertisement describing the nature, &c. of the work, and shall serve copies of such notice on the various persons interested in the lands, roads or streets affected (sect. 32). If such notice results in an objection by the party interested, the sanction of the Local Government Board to the work must be obtained (sect. 33). The Local Government Board will then hold an inquiry, and may disallow the work or allow it with modifications (sect. 34). These three sections are supplementary to sects. 16 (*ante*, p. 30) and 27 (*ante*, p. 32).

It is unlawful under penalties to erect or rebuild a house without a sufficient water-closet, earth-closet or privy and ash-pit (sect. 35). This does not necessitate a separate installation for each house (*The Guardians of the Clutton Union* v. *Pointing* (1879), 4 Q. B. D. 340; 43 J. P. 686; 48 L. J. M. C. 135; 40 L. T. 844; 27 W.R. 658—where a person built two cottages with one privy sufficient for the use of the occupiers of both cottages).

Where a house is reported by the surveyor or inspector of nuisances to be without sufficient water-closet or other privy accommodation, the local authority must by reasonable notice in writing require the owner or occupier to make good the deficiency. If the notice is not complied with, the local authority may do the work and recover the expense summarily from the owner or include it in "private improvement expenses" (*q*). It need not, however, insist upon separate accommodation for each house where the accommodation can be conveniently used in common by more than one (sect. 36).

Where an enactment in force in the district requires the construction of a water-closet, the local authority may approve the

(*p*) See further, Encyclopædia of the Laws of England, tit. "Improvement of Land."

(*q*) For meaning, see *ante*, p. 29.

substitution of an earth-closet, and may dispense with the supply of water for the former purpose. The local authority may undertake or contract for the supply of dry earth or other deodorising substance for any earth-closet (sect. 37).

The owner or occupier of any factory or building in which persons of both sexes are employed at one time may be compelled under penalties by the local authority to supply separate water-closets or other privy accommodation (sect. 38). Whether the local authority insists or not, every factory and workshop must now be provided with such separate accommodation by virtue of sect. 22 of the Public Health Acts Amendment Act, 1890 (*post*, p. 43), where that statute applies, or else sect. 9 of the Factory and Workshop Act, 1901.

An *urban* sanitary authority has power to provide urinals and similar necessaries for the use of the public (sect. 39). This does not enable the authority to build underground conveniences (*Corporation of Tunbridge Wells* v. *Baird*, [1896] A. C. 434; 60 J. P. 788; 65 L. J. Q. B. 451; 74 L. T. 385).

Every local authority must provide that all drains, water-closets, earth-closets, privies, ashpits, and cesspools be constructed and kept so as not to be a nuisance or injurious to health (sect. 40).

On the written complaint of any person that any drain, water-closet, &c. on any premises is a nuisance or injurious to health (but not otherwise), the local authority may empower its surveyor or inspector of nuisances after twenty-four hours' written notice to the occupier, or in case of emergency without notice, to enter the premises and examine the drain, &c. If the complaint is found to be unfounded, the ground is to be closed and the damage done made good at the expense of the local authority, but if the complaint is found to be well founded, the local authority shall give the owner or occupier notice forthwith, or within a reasonable time, to make good the defect. If such notice is not complied with, the recipient becomes liable to penalties, and furthermore the local authority may itself do the work and recover the expense summarily from the owner,

or may include same in "private improvement expenses" (*r*) (sect. 41). "From the construction which has been placed on similar language in sects. 47, 91, it may be inferred that if the nuisance complained of consists of something offensive to the senses it is not necessary that it should *also* be injurious to health" (Lumley's Public Health, 7th ed., Vol. I., p. 108).

Every local authority may, and when required by order of the Local Government Board shall, itself undertake or contract for the removal of house refuse from premises and the cleansing of earth-closets, privies, ashpits, and cesspools. Furthermore, every *urban* sanitary authority, and any *rural* sanitary authority invested by the Local Government Board with the requisite powers (*s*), may, and when required by order of the Board shall, itself undertake or contract for the proper cleansing of streets; and it may also itself undertake or contract for the proper watering of streets. Persons themselves removing or obstructing the removal as aforesaid of any matter which the local authority or its contractor is authorised to remove, are liable to penalties; but an occupier need not permit the removal of anything produced on his premises and intended for his own use or for sale by him, and which in the meantime is so kept as not to be a nuisance (sect. 42). The question of what is meant by "house refuse" has been the subject of much litigation. It would appear that the refuse must be of a domestic nature, and not factory rubbish (*London and Provincial Laundry* v. *Willesden Local Board*, [1892] 2 Q. B. 271; 67 L. T. 499; 40 W. R. 557; 56 J. P. 696—a case of clinkers produced in the furnaces of a steam laundry); although it may have been produced in carrying on trade (*Corporation of Westminster* v. *Gordon Hotels Co.*, [1906] 2 K. B. 39; 70 J. P. 258; 75 L. J. K. B. 438; 94 L. T. 521; 22 T. L. R. 439; 4 L. G. R. 538, decided on sect. 30 of the Public Health (London) Act, 1891—a case relating to ashes, leavings of food, &c., broken crockery, &c., from an hotel); and see similarly *Lyons & Co.* v. *City of London Corporation*, [1909] 2 K. B. 588; 73 J. P.

(*r*) For meaning, see *ante*, p. 29.

(*s*) As to the investment of rural authorities with urban powers, see *ante*, p. 18.

372; 7 L. G. R. 811. On the other hand, all domestic rubbish is not house refuse within the meaning of the section, *e.g.*, "broken glass, shoes and other things which it might not be otherwise convenient to get rid of" (*Collins* v. *Vestry of Paddington* (1879), 43 J. P. 367; 48 L. J. Q. B. 345; 40 L. T. 843; 27 W. R. 504).

A local authority which has undertaken or contracted for the carrying out of the duties of the previous section, and which neglects the same after notice from an occupier of the premises concerned, is liable to such occupier in a penalty not exceeding five shillings a day (sect. 43). This is recoverable summarily (sect. 251).

Instead of undertaking or contracting for the cleansing of footways and pavements adjoining premises, or the removal of house refuse, or the cleansing of earth-closets, privies, ash-pits, and cesspools, the local authority may make byelaws imposing such duties on the occupier of the premises. An *urban* authority may also make byelaws for the prevention of nuisances arising from snow, filth, dust, ashes and rubbish, and against the keeping of animals on premises so as to be injurious to health (sect. 44).

An *urban* sanitary authority may provide receptacles for the temporary deposit and collection of dust, ashes, and rubbish, and buildings and places for the deposit of collected matter (sect. 45).

On a certificate of the medical officer of health, or of any two ordinary medical practitioners, that a house or part thereof is filthy or unwholesome to the prejudice or danger of health, or that the whitewashing, cleansing, or purifying of a house, or part thereof, would tend to prevent or check infectious disease, the local authority must give notice in writing to the owner or occupier to whitewash, cleanse, or purify the same as the case may require, and the recipient of the notice must comply therewith under penalties. Furthermore, in case of default by such owner or occupier the local authority may itself have such whitewashing, cleansing, or purifying done, and recover the expense summarily from the defaulter (sect. 46). These provisions are extended by sects. 91—97 (*post*, Ch. IX.,

pp. 70 *et seq.*), and also by the statutes relating to Factories, Infectious Diseases, and the Housing of the working classes.

In an *urban* sanitary district a person must not, under penalties, (i.) keep any swine or pig-sty within any dwelling-house, or without, so as to be a nuisance; (ii.) suffer waste or stagnant water to remain in any cellar or other place in a dwelling-house for twenty-four hours after written notice from the authority to remove same; (iii.) allow the contents of any water-closet, privy, or cesspool to overflow or soak through. The authority of such district must abate such nuisance, and may recover the expenses summarily from the occupier (sect. 47). This extends sect. 44 (*ante*, p. 37). To bring swine on to premises every morning and remove them away every evening is a keeping on such premises within the meaning of the section (*Steers* v. *Manton* (1893), 57 J. P. 584). To constitute a nuisance within the section it is not necessary that the keeping of the same should be injurious to health (*Banbury Urban Sanitary Authority* v. *Page* (1881), 61 L. J. M. C. 21; 8 Q. B. D. 97; 45 L. T. 759; 30 W. R. 415; 46 J. P. 184).

Where there exists a foul and offensive watercourse or open ditch lying near to, or forming the boundary between, two sanitary districts, so that either district is injuriously affected, the authority of the injured district may summon the authority of the other district before a Court of summary jurisdiction to show cause why an order should not be made against the latter for cleansing such watercourse or ditch, and for executing such works as may be necessary, and the Court may make such order as may be reasonable. The Court decides as to who shall execute the necessary works, and as to the cost thereof, and by whom and in what proportions it shall be borne, and as to the time and mode of payment (sect. 48). A ditch ran along a highway which divided two districts, and constituted a nuisance. The ditch was situate in one district, but it became a nuisance owing mainly to sewage from the other district. It was held that the order to cleanse should be made upon the latter district, although to comply with such order they would have to go to the former district (*Woburn Union* v. *Newport Pagnell Union* (1887), 51 J. P. 694).

An inspector of nuisances in an *urban* sanitary district may give notice to remove any accumulation of manure, dung, soil, filth, or other offensive or noxious matter, to the person to whom the same belongs, or to the occupier of the premises where the same is. Upon default the matter vests in and may be disposed of by the authority, and the proceeds go towards the expenses incurred by the authority. If there be a surplus it goes to the owner of the matter. If there be a deficiency it is recoverable summarily from the owner of the matter, or the occupier of the premises if one, and if none, from the owner of the premises (sect. 49). Under a similar clause in the Nuisances Removal Act, 1855, a harbour company were held bound to remove seaweed which had drifted into the harbour and become a nuisance (*Proprietors of Margate Harbour* v. *Corporation of Margate* (1869), 33 J. P. 437; 20 L. T. 564).

An *urban* sanitary authority may make public announcement requiring the periodical removal of manure or other refuse from mews, stables or other premises, and any person to whom the manure or other refuse matter belongs who fails to comply with such announcement becomes liable to penalties (sect. 50). The announcement may be apparently made in any manner so long as it be sufficiently public.

Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883.—For this statute refer to Chapter I. (*ante*, p. 2), where its purport is sufficiently described.

CHAPTER VI.

GENERAL SANITATION (III.)

Public Health Acts Amendment Act, 1890.—The provisions of this Act dealt with in this chapter form part of Part III. of the statute. Parts II.—V. are adoptive. It is provided by sect. 3 that an urban sanitary authority may adopt all or any of such Parts; while a rural sanitary authority may adopt Part III. so far as the Act declares it to be applicable to such an authority, which is done by sect. 50. The effect of sect. 50 is embodied in the statement of the provisions of Part III. contained in this work. It must be observed that neither class of authority can adopt individual provisions of any Part adoptable by them respectively. Rural sanitary authorities, however, may obtain the application of any individual sections (including those which the Act itself confers only on urban authorities) by the operation of sect. 5 of the Act, the effect of which is set out *ante*, Ch. III., p. 18.

The adoption must be by resolution passed at a meeting of the local authority; and one calendar month at least before such meeting special notice of the meeting and of the intention to propose such resolution must be given to every member of the authority, and the notice is deemed to have been duly given to a member if it is either (a) given in the mode in which notices to attend meetings of the authority are usually given, or (b) where there is no such mode, then signed by the clerk of the authority and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter, addressed to the member at his usual or last known place of abode in England. The resolution must be published by advertisement in some one or more newspapers circulating within the district of the authority, and by causing

notice thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually fixed, and otherwise in such manner as the authority think sufficient for giving notice thereof to all persons interested. It comes into operation at such time (not less than one month after the first publication of the advertisement of the resolution) as the authority has by the resolution fixed. Upon its coming into operation such Parts of the Act as are adopted extend to that district. A copy of the resolution must be sent (a) where any Part of the Act is adopted, to the Local Government Board; (b) where Part II. is adopted, to the Board of Trade; (c) where Part IV. is adopted, to a Secretary of State. A copy of the advertisement is conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, can be made after three months from the date of the first publication of the advertisement (sect. 3).

It is unlawful under penalties for any person to throw or pass into the sewer of a local authority or drain communicating therewith, anything which may interfere with the free flow of the sewage or surface or storm water, or which may injure such sewer or drain (sect. 16).

It is made unlawful under penalties to turn or permit to enter into a sewer of a local authority, or drain communicating therewith, any chemical refuse, steam or hot liquid, so as to cause a nuisance or be dangerous or injurious to health. The authority are given a right of entry. A person is not liable until he has been given notice of the provisions of the section (sect. 17).

Where the owner or occupier of premises is entitled to join any sewer or drain to the sewer of the local authority he may require the authority to do the work themselves upon payment of the cost in advance. Such cost is to be estimated in the first instance by the surveyor, but if it be under £50 such owner or occupier may appeal to a Court of summary jurisdiction, and if it be over £50 he may have the amount determined by

arbitration under the Public Health Acts (*t*) (sect. 18). This enlarges sects. 21 and 22 of the Act of 1875 (*ante*, p. 31).

Where two or more houses belonging to different owners are connected with a public sewer by a single private drain the provisions of sect. 41 of the Act of 1875 (*ante*, pp. 35 and 36) are made applicable, and the expenses are apportionable between the owners. For the purposes of this section the expression "drain" includes a drain for the drainage of more than one building (sect. 19). The importance of this section lies in its application to what is in reality, and for all other purposes, a sewer according to sect. 4 of the Act of 1875 (*ante*, p. 24). The following points may be noted:—(i.) the section only applies where it has been adopted by or made applicable to the local authority; (ii.) it only applies where the houses belong to different owners; (iii.) except for the purposes of this section (*i.e.*, where it constitutes a nuisance) such drain remains a sewer. If, therefore, it needs repair, but does not constitute a nuisance, the obligation of repairing it falls upon the local authority (*R.* v. *Hastings Corporation*, 66 L. J. Q. B. 80; [1897] 1 Q. B. 46; 75 L. T. 377; 45 W. R. 109; 60 J. P. 759). There has been a great deal of litigation as to the meaning of the expression "single private drain," but the matter is too complicated for discussion in this place. Reference may be made to *Self* v. *Hove Commissioners*, 64 L. J. Q. B. 217; [1895] 1 Q. B. 685; 15 R. 283; 72 L. T. 234; 43 W. R. 300; 59 J. P. 103: *Eastbourne Corporation* v. *Bradford*, 65 L. J. Q. B. 571; [1896] 2 Q. B. 205; 74 L. T. 762; 45 W. R. 31; 60 J. P. 501: *Seal* v. *Merthyr Tydfil Urban District Council*, 67 L. J. Q. B. 37; [1897] 2 Q. B. 543; 77 L. T. 303; 61 J. P. 551: *Jackson* v. *Wimbledon Urban Council*, 74 L. J. K. B. 641; [1905] 2 K. B. 27; 92 L. T. 553; 53 W. R. 485; 69 J. P. 225; 3 L. G. R. 586; 21 T. L. R. 479: and *Wood Green Urban Council* v. *Joseph*, 77 L. J. K. B. 924; [1908] A. C. 419; 99 L. T. 733; 72 J. P. 393; 6 L. G. R. 980; 52 Sol. Jo. 726; 24 T. L. R. 850.

Where an *urban* sanitary authority provides public sanitary

(*t*) See sects. 179—181 of the Act of 1875, *ante*, p. 20.

conveniences (*u*) it may (i.) make regulations for the management and byelaws for the decent conduct of persons using the same; (ii.) lease the same for not more than three years; (iii.) charge fees for the use of water-closets. No public sanitary convenience provided by other than the local authority is to be accessible from the street without consent of such authority, except those erected by railway companies within their precincts (sect. 20). This extends sects. 39 (*ante*, p. 35) and 45 (*ante*, p. 37) of the Act of 1875.

Persons injuring or fouling a sanitary convenience (*u*) common to two or more dwelling-houses, or permitting the same to become a nuisance or annoyance for want of proper cleansing, are made liable to penalties (sect. 21).

In *urban* sanitary districts workshops, factories, buildings employing persons in trade or business must be provided with sufficient and suitable sanitary conveniences (*u*), and where both sexes are employed, with separate accommodation for each. Where this section is in force sect. 38 of the Act of 1875 is repealed (sect. 22). Taking it in conjunction with sect. 9 of the Factory and Workshop Act, 1901, sect. 38 of the Act of 1875 (*ante*, p. 35) may be regarded as practically superseded.

In an *urban* sanitary district, rooms over a privy (other than water-closet or earth-closet), cesspool, midden, or ashpit, must not be used as a dwelling-place, sleeping-place, or work-room, or as a place for the habitual employment of a person in manufacture, trade or business during day or night. Both those who occupy and those who permit such occupation are liable to penalties (sect. 24).

New buildings must not be erected on ground filled up with offensive matter, fœcal, animal or vegetable, unless such matter be removed, or be rendered, or have become innocuous, under penalties upon those who either cause or wilfully permit the offence (sect. 25).

Urban sanitary authorities may make byelaws (a) prescribing times for carriage through their streets of fœcal or offensive or

(*u*) For definition, see *ante*, p. 29.

noxious matter or liquid, (b) providing that receptacles and carriages used for such matter or liquid shall be constructed and covered so as to prevent its escape, (c) compelling the cleansing of any place whereon such matter or liquid shall be spilt (sect. 26 (1)). This extends sect. 44 of the Act of 1875 (*ante*, p. 37).

Local authorities undertaking or contracting for the removal of house refuse may make byelaws imposing on occupiers of premises duties in connection with such removal so as to facilitate same (sect. 26 (2)). This extends sect. 42 of the Act of 1875 (*ante*, p. 36).

In an *urban* sanitary district, where any court or passage common to several buildings (not being a highway repairable by the inhabitants at large) is not kept properly clean to the satisfaction of the authority, the authority may cause the same to be cleaned, and charge the expense upon the occupiers served by such court or passage as may be apportioned by the surveyor, or in case of dispute by a Court of summary jurisdiction. Such amount is recoverable summarily (sect. 27).

Public Health Acts Amendment Act, 1907.—This Act is only applicable when so made by order of the Local Government Board (except as to Parts VII.—IX., which, strictly, do not relate to public health, when the order must be made by the Secretary of State (*v*)), to be obtained upon application by the local authority to the Board in the manner provided by sect. 3 (*infra*). An order made includes all or any of the powers comprised in the Act, and may be made in favour of either urban or rural authorities. It is not necessary, as in the case of the statute just dealt with, to apply each Part as a whole, but individual provisions may be applied.

The method of adopting the application of the Act is as follows: The local authority must make application to the Local Government Board. Two weeks at least before applying for an order, the authority must give notice of their

(*v*) This expression covers any of the five Secretaries of State, but in the present connection would mean, in practice, the Home Secretary.

intention to make such application by advertising the same once at least in one or more of the newspapers circulating in their district in each of two successive weeks, and no order can be made under this section until proof of such advertisement has been given to the satisfaction of the Board, and until at least one month has elapsed after the date of such advertisement. The Board may then (by order to be published in such manner as the Board may direct) declare any Part or any section of the Act to be in force in the district of the local authority, or, where the authority are a rural district council, in any contributory place within the district of the authority. The Board may further declare any enactments in any local Act, which appear to the Board to contain provisions similar to or inconsistent with any such Part or section, to be no longer in force in that district or contributory place. Any such order may specify conditions subject to which any Part or any section of the Act shall be in force in the district or contributory place. Where, in the opinion of the Board, the circumstances so require, any such order may (in relation to that district or contributory place) declare any Part or any section of the Act to be in force subject to such necessary adaptations as are specified in the order. A statement of the effect of each order specifying conditions or adaptations as aforesaid must be published in the London Gazette as well as in any other manner directed by the Board (sect. 3). It is provided by sect. 21 that any adoption may be rescinded wholly or partly by the same procedure as is provided in sect. 3 for adoption. The following provisions are from Part III. of the statute:

Sect. 41 of the Act of 1875 (*ante*, pp. 35, 36) shall operate not only on the application of a person, but also on the report of the surveyor or inspector of nuisances of the local authority that they have reason to suspect any drain, &c. to be a nuisance or injurious to health (sect. 34).

Rain-water pipes must not be used to drain privies (sect. 36).

Water pipes, &c. used for conveying surface water must not be used as ventilating shafts to drains (sect. 37).

Before making a drain communicating with the sewer of a

local authority the surveyor must certify that such communication may properly be made, and may open the drain for examination for that purpose (sect. 38). This extends sects. 21 and 22 of the Act of 1875 (*ante*, p. 31).

Where there is sufficient water supply and sewer the local authority may in new buildings require the provision of proper water-closets and slop-closets, and in existing buildings may require the same either by the conversion of the existing accommodation, or, where this method will not serve, by the provision of fresh water-closets and slop-closets. In the case of such conversion, where the existing accommodation is a pail-closet, the expense of conversion is to be borne by the local authority, but where the existing accommodation is other than pail-closet, the expense of conversion is divisible between the local authority and the owner of the premises (sect. 39) (*w*). Where the local authority does work under sect. 39 for the common benefit of several buildings belonging to different owners, any contribution is apportionable by the surveyor with appeal to petty sessional Court (sect. 40). The local authority has a right of entry in connection with the provisions of sect. 39 (sect. 41). A person aggrieved on the ground that the requirements of the local authority or the expenses of complying therewith were unreasonable can appeal to a Court of summary jurisdiction (sect. 42). These four sections extend sect. 36 of the Act of 1875 (*ante*, p. 34). For the need for this extension, see *Wood* v. *Corporation of Widnes*, [1898] 1 Q. B. 463; 62 J. P. 117; 67 L. J. Q. B. 254; 77 L. T. 779; 46 W. R. 293).

A local authority may require the removal of any urinal or other sanitary convenience (*x*) opening on a street if it be a nuisance or offensive to public decency (sect. 43).

The local authority may require any inn, public-house, beer-house, eating-house, refreshment-house, or place of public entertainment to provide suitable urinals (sect. 44).

(*w*) Some readers may require a completer statement of this important section, which is therefore set out in full in the Appendix, *post*, p. 188 *et seq.*

(*x*) For meaning of this term, see *ante*, p. 29.

The medical officer, surveyor, or inspector of nuisances may apply the smoke or coloured-water test or other similar test (except water under pressure) to the testing of defective drains, and if on the application of such test the drains are found to be defective the local authority may require the owner of the premises to remedy it, and if he makes default the local authority may do the work itself, and recover from the owner (sect. 45). This (like sect. 34, *ante*, p. 45) extends sect. 41 of the Act of 1875 (*ante*, pp. 35, 36).

Local authorities may insist on the filling up of any cesspool or similar ashpit or well which the medical officer, surveyor, or inspector of nuisances reports to be injurious to health or otherwise objectionable for sanitary reasons. In the event of default the authority may do the work themselves, and recover from the owner (sect. 46). This also extends sect. 41 of the Act of 1875 (*ante*, pp. 35, 36).

The local authority may provide sanitary conveniences (*y*) and lavatories in or under streets, and may conduct them themselves or lease them. The conveniences, &c. (except urinals) may be charged for (sect. 47). This extends sect. 39 of the Act of 1875 (*ante*, p. 35), and sect. 20 of the Act of 1890 (*ante*, pp. 42, 43), and gets over the difficulty indicated by the *Corporation of Tunbridge Wells* v. *Baird* (*ante*, p. 35).

A local authority may be required by the owner or occupier of premises to remove trade refuse other than sludge, but such owner or occupier must pay a reasonable sum therefor, to be settled in case of dispute by a Court of summary jurisdiction. Any dispute as to what is to be considered as "trade refuse" is to be settled by a Court of summary jurisdiction, whose decision is final (sect. 48). The last four words preclude not only appeal to Quarter Sessions, but also the statement of a special case for the King's Bench Division (*Westminster City Council* v. *Gordon Hotels, Ltd.*, [1908] A. C. 142; 72 J. P. 201; 6 L. G. R. 520; 98 L. T. 681, decided on sect. 33 of the Public Health (London) Act, 1891). As to the meaning of "trade refuse," consult the cases cited (*ante*, pp. 36, 37) in

(*y*) For definition, see *ante*, p. 29.

connection with "house refuse," and Lumley's Public Health, 7th ed., Vol. I., pp. 111, 112.

Where the surveyor, medical officer, or inspector of nuisances, reports that a building is not provided with a proper sink, drain, or appliances for carrying off refuse water, the local authority may give the owner or occupier notice requiring him to make the necessary provision. In default of so doing to the satisfaction of the local authority, such owner or occupier is made liable to penalties. Furthermore, the local authority may itself do the work and recover the expenses summarily (sect. 49). This extends sect. 23 of the Act of 1875 (*ante*, pp. 31, 32).

In connection with the subject of this chapter the Canal Boats Acts of 1877 and 1884 may be referred to (see *post*, pp. 173, 174). See also "Alkali, &c. Works," *post*, p. 175.

CHAPTER VII.

WATER.

THE powers and duties of local authorities in relation to the supply of water are (so far as public, as distinct from private and local statutes, are concerned) to be found principally in sects. 51—70 of Part III. of the Public Health Act, 1875, and the Public Health (Water) Act, 1878. The former, except as to one of its provisions (sect. 66), applies to both *urban* and *rural*, while the latter applies mainly to *rural*, sanitary authorities. It must be noted, however, that all or any of the urban powers in either Act may be conferred by the Local Government Board upon rural authorities (see Ch. III., *ante*, p. 18), and that, conversely, as regards the latter statute the Board may by sect. 11 invest any urban sanitary authority with all or any of the powers and duties given by the statute to a rural sanitary authority, either unconditionally, or subject to conditions as to the time, portion of the district, or manner of the exercise of such powers and duties.

Public Health Act, 1875.—Any *urban* sanitary authority may provide its district, or any part thereof, and any *rural* authority may provide its district, or any contributory place (*z*) therein, or any part of such contributory place, with a proper and sufficient supply of water for public and private purposes, and for such purposes may (i.) build waterworks (*a*), dig wells, &c., (ii.) lease or hire waterworks, and

(*z*) A "contributory place" or "special drainage district" is an area constituted by a resolution of a *rural* sanitary authority approved by the Local Government Board for the purpose of charging thereon exclusively the expenses of sewerage, water supply, &c., as "special expenses" (see further sects. 229 and 277 of the Act, *post*, pp. 150, 151). It may be regarded as an incipient urban area.

(*a*) "Waterworks" includes streams, springs, wells, pumps, reservoirs,

(with the sanction of the Local Government Board) purchase them or any water rights either within or without the district, and any rights, powers, and privileges of any water company (*b*), (iii.) contract for a supply of water to the district (sect. 51). It must be noted that by sect. 299 of the Act the local authority *must* provide a water supply where there is danger to health from the deficiency or nature of the existing supply, and a proper supply can be obtained at a reasonable cost.

Before constructing waterworks the local authority must give notice to any water company supplying the district, and must not construct so long as such company are able and willing to give a proper supply. In case of dispute, the matter is to be decided by arbitration (*c*) under the Act (sect. 52). The prohibition contained in this section is one of degree, and is not intended to apply to a case where the local authority has already substantial waterworks so as to prevent it from adding to or improving them (*Cleveland Water Co.* v. *Redcar Local Board,* [1895] 1 Ch. 168; 59 J. P. 7; 64 L. J. Ch. 64; 43 W. R. 90; 11 T. L. R. 28). But such prohibition will apply where an area is added to a district and there is an established water company able and willing to supply such added area (*Huddersfield Corporation* v. *Ravensthorpe Urban District Council,* [1897] 2 Ch. 121; 61 J. P. 596; 66 L. J. Ch. 581; 76 L. T. 817; 45 W. R. 642). Notwithstanding the section, a local authority may provide waterworks for the supply of water for their own purposes only, although there exists a water company in the district able and willing to supply (*West Surrey Water Co.* v. *Guardians of Chertsey Union,* [1894] 3 Ch. 513; 58 J. P. 167; 63 L. J. Ch. 806; 71 L. T. 368; 43 W. R. 6; 10 T. L. R. 581; 8 R. 696). To be "able and willing" within the meaning

cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying or used for supplying water; also the stock in trade of any water company.

(*b*) "Water company" means any persons or body of persons, corporate or unincorporate, supplying, or who may hereafter supply, water for his or their own profit.

(*c*) The arbitration provisions are contained in sects. 179—181 of the Act, *ante*, p. 20.

of this section a waterworks company must have in itself (and not by delegation only) both the necessary powers and the requisite supply of water (*Richmond Waterworks Co.* v. *Vestry of Richmond* (1876), 3 Ch. D. 82; 45 L. J. Ch. 441; 34 L. T. 480).

Before commencing to construct a reservoir (other than a service reservoir or tank of capacity not exceeding 100,000 gallons) the local authority must advertise, giving two months' notice of the intended work. If any person then objects, the sanction of the Local Government Board must be obtained to the work (sect. 53).

A local authority supplying water has the same powers and is subject to the same restrictions in carrying mains within or without the district as in respect of sewers (sect. 54). As to sewers, see sect. 16 (*ante*, p. 30), and sects. 32—34 (*ante*, p. 34).

A local authority must maintain in its waterworks a supply of pure and wholesome water. Where it lays pipes for supplying the inhabitants, the water may be laid on constantly at sufficient pressure to carry to the top storey of the highest dwelling-house (sect. 55).

A local authority supplying water may charge a water-rate assessed on the net annual value of the premises. It may also enter into agreements for the supply of water, and has the same power for recovering payments under such agreements as for recovering water-rates (sect. 56). Where the district is *urban*, or, in a *rural* district, is a "contributory place" (see *ante*, p. 49), ratepayers can insist on charge by assessed rate (see sect. 10 of the Act of 1878, *post*, p. 57).

For the purpose of enabling a local authority to supply water certain other statutory provisions are to be deemed incorporated with this Act, namely, the Waterworks Clauses Act, 1863, and those provisions of the Waterworks Clauses Act, 1857, which relate to the breaking up of streets for the purpose of laying pipes, communication pipes, waste or misuse of water, fouling the water, and payment in recovery of water-rates (sect. 57).

A local authority may agree to supply water by measure.

In such case it must keep the meters in proper order, and has a right of access for such purpose (sect. 58).

The meter register is *primâ facie* evidence of the quantity of water consumed. Any dispute is to be determined by a Court of summary jurisdiction without appeal (sect. 59).

Persons injuring meters or other fittings belonging to a local authority, whether wilfully or by culpable negligence, or fraudulently altering the index or preventing it registering properly, or fraudulently abstracting water, is liable to penalties as well as the damage sustained (sect. 60).

With the sanction of the Local Government Board one local authority can supply water to another local authority adjoining on terms agreed or as may be settled by arbitration (*d*) (sect. 61).

Where the surveyor reports that a house is without a proper water supply, and that such supply can be furnished at a reasonable cost determined in manner prescribed in the section, the local authority may, by notice, require the owner of the house to obtain such supply. In case of default the local authority may do all things necessary for obtaining the supply for such house, and may recover the expenses summarily from the owner, or may declare it to be "private improvement expenses" (*e*). The owner must pay water-rate in the same manner as if he had himself demanded the supply (sect. 62). The prescribed method of determination of cost may necessitate an order of the Local Government Board. See further, sect. 8 of the Act of 1878, *post*, p. 56.

A water company may contract to supply water, or may lease or sell their undertaking to a local authority. In case of a sale the directors must obtain the consent of the shareholders by special resolution (sect. 63).

Public cisterns, pumps, wells, reservoirs, &c. existing at the time of the passing of the Act, used for the gratuitous supply of water to inhabitants of any district were vested in the local

(*d*) The arbitration provisions are contained in sects. 179—181 of the Act, *ante*, p. 20.

(*e*) See *ante*, p. 29.

authority, and such authority may continue, improve, or provide substitutes therefor for the use of the inhabitants, but not for sale of the water by them (sect. 64).

A local authority may by agreement supply water to public baths or washhouses, or for trading or manufacturing purposes, and it may construct works for the gratuitous supply of public baths or washhouses not established for private profit (sect. 65).

An *urban* sanitary authority must provide fire-plugs and all necessary works, machinery and assistance to secure an efficient supply of water in case of fire, and they must indicate on buildings and walls the proximity of such fire-plugs (sect. 66).

In the Oxford or Cambridge district the local authority may agree for the supply of water to any hall, college or premises of the university (sect. 67).

Persons engaged in the manufacture of gas who (i.) cause the corruption of water by gas washings, or (ii.) wilfully do any act fouling water are liable to heavy penalties (sect. 68). As to the meaning of "wilfully," see *High Wycombe Corporation* v. *Thames Conservators* (1898), 78 L. T. 463; 14 T. L. R. 358.

With the sanction of the Attorney-General a local authority may take proceedings by indictment, action or otherwise to protect watercourses from pollution by sewage either within or without their district (sect. 69). A watercourse is a natural or artificial stream of water flowing in a channel between banks more or less defined, although such channel may occasionally be dry; as distinguished from a pool, well, reservoir, or such like receptacle for standing water (see Encyclopædia of the Laws of England, tit. "Watercourse"; and *R.* v. *Oxfordshire* (1830), 1 B. & Ad. 289; 8 L. J. (O. S.) K. B. 354).

On representation that the water in any well, tank, or cistern, public or private, or supplied from any public pump, and used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, is so polluted as to be injurious to health, the local authority may cause the

owner or occupier of the premises to which such private well, tank, or cistern belongs, or any person interested in such public well, tank, cistern or pump, to be summoned before a Court of summary jurisdiction, and the Court may order the well, tank, cistern or pump to be permanently or temporarily closed, or the water to be used for certain purposes only, or make such other order as may appear requisite to prevent injury to the health of persons drinking the water. In case of default the Court may authorise the local authority to do what may be necessary, and recover the expenses summarily. Where such expenses are incurred by a *rural* authority, and it does not succeed in recovering them, they shall be "special expenses" (*f*) (sect. 70).

Public Health (Water) Act, 1878.—As before stated, this Act applies mainly to *rural* authorities, but may be made to apply to *urban* authorities (see *ante*, p. 49).

Every *rural* sanitary authority must see that every occupied dwelling-house in its district has within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes for the inmates of the house (sect. 3). As to the meaning of "domestic purposes," the test is the user of the water and not the user of the premises. Hence "domestic purposes" includes that used for a bath in a private house (*Weaver* v. *Cardiff Corporation* (1883), 48 L. T. 906; 47 J. P. 599), but not that used for a *swimming* bath in connection with a school (*Barnard Castle Urban Council* v. *Wilson*, [1902] 2 Ch. 746; 71 L. J. Ch. 825; 87 L. T. 279; 51 W. R. 102). Water used by a doctor for washing his motor car is for "domestic purposes," although if supplied to a motor dealer for a similar purpose in relation to his stock-in-trade, it would not be (*Harrogate Corporation* v. *Mackay*, [1907] 2 K. B. 211; 71 J. P. 458; 76 L. J. K. B. 977; 23 T. L. R. 632; 5 L. G. R. 876). Water used in a house for cleansing,

(*f*) "Special expenses" are expenses relating to sewers and water supply in a "contributory place" or "special drainage district," where such expenses are not defrayed out of water rates or rates. See *ante*, p. 49, and *post*, pp. 150, 151.

cooking, drinking, bathing, &c., is none the less for "domestic purposes," because such house is a boarding-house (*Pidgeon v. Great Yarmouth Waterworks Co.*, [1902] 1 K. B. 310; 66 J. P. 309; 71 L. J. K. B. 61; 85 L. T. 632). The same applies in the case of a school (*South Western Suburban Water Co. v. St. Marylebone Guardians*, [1904] 2 K. B. 174; 68 J. P. 257; 73 L. J. K. B. 347; 52 W. R. 378; 20 T. L. R. 299; 2 L. G. R. 567).

Where the inspector of nuisances, or medical officer of health, of a *rural* sanitary authority reports that any occupied dwelling-house has no proper supply as above-mentioned, and the authority considers that such supply can be provided at a reasonable cost as indicated in the section, and that the expense ought to be paid by the owner or charged as "private improvement expenses" (*g*), the authority may act as follows, viz.: (i.) serve the owner with a notice requiring him to provide such supply; (ii.) if this is not complied with, serve him with a second notice informing him that if he does not comply with the first notice within a month the authority will provide it; (iii.) if the owner still makes default, the authority may provide the supply; and (iv.) recover the expense summarily from the owner, or charge it as "private improvement expenses" (*g*); (v.) do such work for several houses jointly and apportion the expense (*ibid.*).

Where an owner is required as before mentioned to provide a supply of water, he may memorialise the authority objecting on any of the following grounds, namely: (i.) that the supply is not required; (ii.) that the time given him to provide the supply is insufficient; (iii.) that the supply cannot be provided at a reasonable cost; (iv.) that the authority ought itself to provide a supply for the whole district, or a "contributory place" (*h*) in which the house is situate; (v.) that the whole or any part of the expense should be charged on the district or "contributory place." If the objections in the memorial are confined to (i.)—(iii.), the authority cannot proceed with the work without the consent of a Court of summary jurisdiction; if such

(*g*) See *ante*, p. 29. (*h*) See *ante*, p. 49.

objections are, or include, (iv.) or (v.) it cannot proceed without the consent of the Local Government Board (sect. 4).

Where an owner objects to his apportionment in the case of a joint supply as above mentioned, the dispute is to be decided by a Court of summary jurisdiction (sect. 5).

No dwelling-house in a *rural* sanitary district built or rebuilt after the commencement of the Act must be permitted by the owner (under penalties) to be occupied until the authority has certified, on the report of the inspector of nuisances or medical officer of health, that there is provided within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for the domestic purposes (*i*) of the inmates. On refusal to certify the owner may appeal to a Court of summary jurisdiction (sect. 6).

Every *rural* sanitary authority must from time to time ascertain the condition of the water supply in its district, and they have a right of entry into any occupied dwelling-house upon reasonable ground for believing that there is not a sufficient supply of wholesome water for consumption and use for domestic purposes (*i*) (sect. 7).

Where application is made to the Local Government Board by a local sanitary authority (*j*) under sect. 62 of the Act of 1875 (*k*), to determine what is a reasonable cost, the Board may make a joint order fixing a scale of charges for the whole or any part of the district (sect. 8).

Where a *rural* sanitary authority provides a stand-pipe for the supply of water, it may recover water rates or water rents (*l*) from the owner or occupier of every dwelling-house within 200 feet, except in the case of any dwelling-house which does not need, and also in fact does not use, such stand-pipe (sect. 9).

Where ten ratepayers in an *urban* sanitary district, or five

(*i*) For meaning of "domestic purposes," see *ante*, pp. 54, 55.

(*j*) *Urban* or *rural*.

(*k*) *Ante*, p. 52.

(*l*) Water *rent*, as distinct from a water *rate*, is a payment demandable by an authority by virtue of an agreement between the consumer and the authority.

ratepayers in a "contributory place" (*m*) of a *rural* sanitary district, apply that the local authority charge water rates or water rents in respect of water supplied, the authority must comply (sect. 10).

Pollution of Rivers.

Connected with the subject of this chapter are the Rivers Pollution Prevention Acts, 1876 and 1893, sect. 14 of the Local Government (England and Wales) Act, 1888, the Rivers Pollution Prevention (Border Councils) Act, 1898, and sect. 47 of Part III. of the Public Health Acts Amendment Act, 1890.

Rivers Pollution Prevention Act, 1876.—It is forbidden to put, or cause or permit to be put or fall or carried into any stream (*n*) so as to interfere with its due flow or to pollute its waters, the solid refuse of any manufactory, manufacturing process or quarry, or any rubbish or cinders or any other waste or any putrid or solid matter (*o*). The offence is committed whether the act in question produces the forbidden effect by itself or in combination with other similar acts of the same person or any combination of any similar acts of any other person; and evidence may be given of repeated acts which together cause such interference or pollution, although each act taken by itself may not be sufficient for that purpose (sect. 2).

(*m*) For meaning of, see *ante*, p. 49.

(*n*) By sect. 20, "stream" includes the sea to such extent, and tidal waters to such point, as may, after local inquiry and on sanitary grounds, be determined by the Local Government Board, by order published in the London Gazette. Save as aforesaid, it includes rivers, streams, canals, lakes, and watercourses, other than watercourses at the passing of this Act mainly used as sewers, and emptying directly into the sea, or tidal waters which have not been determined to be streams within the meaning of this Act by such order as aforesaid.

(*o*) It is provided by sect. 20 that "solid matter" shall not include particles of matter in suspension in water.

It is an offence to cause or permit to fall, flow, or be carried into any stream any solid or liquid sewage matter. A person is not guilty of an offence where such sewage passes through a drain communicating with a sewer controlled by the local authority, provided that the act is sanctioned by such authority (sect. 3). As to the position of the authority in such case, see the Act of 1893 (*post*, p. 60).

It is an offence to cause or permit to fall, flow or be carried into any stream any poisonous, noxious or polluting liquid from any factory or manufacturing process (sect. 4).

It is an offence to cause or permit to fall, flow or be carried into any stream, solid matter from a mine in such quantities as prejudicially to interfere with its due flow, or any poisonous, noxious or polluting solid or liquid matter from a mine other than that in which it has proceeded from the mine. In the case of the poisonous, noxious or polluting matter, it is a defence that there are being used the best practicable and reasonably available means to render such matter harmless (sect. 5).

Proceedings are not to be taken against any person under the two preceding sections save by the local authority, and with the consent of the Local Government Board. If the authority, on the application of any person interested, refuses to take proceedings, such person may apply to the Local Government Board, who may direct the authority to proceed. In giving or refusing consent, the Board must have regard to the industrial interests involved, and the conditions of the locality. Furthermore, the Board must not consent to proceedings in any district which is the seat of a manufacturing industry unless satisfied, firstly, that means for rendering harmless the aforesaid liquids are reasonably practicable and available, and, secondly, that no material injury to such industry will accrue. Even where the Local Government Board has consented to proceedings, any person within such district shall be at liberty to object to such proceedings before the authority, who must thereupon afford him an opportunity of being heard so far as the proceedings relate to his works or manufacturing processes; and in addition the authority must have regard to the industrial interests in-

volved and the conditions of the locality. Where a local authority has taken proceedings no other authority may do so unless the party against whom the proceedings are directed fails within a reasonable time to carry out the order of the Court (sect. 6).

Local authorities must give facilities to enable liquids proceeding from factories or manufacturing processes into sewers under their control. This, however, is not to apply so as to compel the authority to admit any liquid which would prejudicially affect the sewers or the disposal or application of the ordinary sewage or which would, from its temperature or otherwise, be sanitarily injurious. Furthermore, such facilities need not be given where the sewers are only sufficient for the requirements of the district, nor where they would interfere with any order of the Court respecting the sewage of the authority (sect. 7).

The local authority have, subject to the restrictions aforesaid (see sect. 6, *ante*, p. 58), the power to enforce the provisions of this Act in relation to any stream within, or passing through or by, any part of their district, not only against any person, but against any other local authority, and whether the offence is committed within or without the district. Furthermore, subject to the restrictions aforesaid (see sect. 6, *ante*, p. 58), proceedings may be instituted by any person aggrieved (sect. 8).

The proceedings under this Act must be taken in the county court, which may make summary orders for the performance of any duty of commission or omission imposed by the Act. The question of determining the "best practicable and available means" (see sects. 5 and 6, *ante*, p. 58) may be remitted by the court to skilled parties to report thereon (sect. 10).

Appeal from the county court is to the High Court by way of special case. Furthermore, the proceedings may in the first instance be removed from the county court to the High Court by order of the latter (sect. 11).

A certificate granted by an inspector specially appointed for the purposes of this Act by the Local Government Board to the effect that the means used for rendering matter harmless

are the "best practicable and available means" (see sects. 5 and 6, *ante*, p. 58) is conclusive evidence thereof (sect. 12).

Two months' notice to the offender must be given before proceedings under this Act can be taken; and they cannot be taken while other proceedings in relation to such offence are pending (sect. 13).

Rivers Pollution Prevention Act, 1893.—The object of this Act is to explain sect. 3 of the foregoing Act (*ante*, p. 57), and it provides that where any sewage matter falls or flows or is carried into any stream after passing through or along a channel which is vested in a local authority, such authority shall (for the purposes of the said sect. 3) be deemed to permit knowingly such fall, flow or carrying.

Local Government (England and Wales) Act, 1888.—Sect. 14 of this statute provides that (1) in addition to the local authorities, county councils are to have power to enforce the Act of 1876 (*p*) in the same manner and subject to the same restrictions as such local authorities; (2) county councils may contribute towards the costs of a prosecution under the Act of 1876 (*p*), instituted by a local authority or any other county council; (3) the Local Government Board may, by provisional order made on the application of a council of a county concerned, constitute a joint committee representing all the administrative counties through or by which a river or tributary thereof passes. The Board may confer on such body all or any of the powers of a local authority under the Act of 1876 (*o*).

Rivers Pollution Prevention (Border Councils) Act, 1898.—The object of this statute is to enable county councils on either side of the border of England and Scotland to act together for the prevention of pollution of rivers. It provides that where a river or tributary thereof is situate partly in England and partly in Scotland, the Local Government Board for

(*p*) As amended of course by the Act of 1893.

England and the Secretary for Scotland (acting jointly) may by provisional order made on the application of any county concerned, constitute a joint committee representing all or any of the counties through or by which such river or tributary passes; and the order may confer on such body all or any of the powers of the local authority under the Act of 1876 (*q*).

The result of the foregoing statutes is that in respect of an offence there may conceivably be no less than five bodies or persons able to institute proceedings, namely, the local sanitary authority, the county council, a joint committee of English county councils (where the river crosses the border), a joint committee of English and Scotch county councils, and any person aggrieved. However, sects. 6 (*ante*, p. 58) and 13 (*ante*, p. 60) prevent multiplicity of proceedings.

Public Health Acts Amendment Act, 1890.—This Act is adoptive (see *ante*, p. 40). Sect. 47 (Part III.) provides that within any district in which this Part of the Act has been adopted it is unlawful to throw or place, or suffer to be thrown or placed, into or in any river, stream or watercourse, any cinders, ashes, bricks, stones, rubbish, dust, filth, or other matter likely to cause annoyance. It must be noted that proceedings under this section are before a Court of summary jurisdiction, whereas those under the Rivers Pollution Prevention Acts are in the county court.

(*q*) As amended of course by the Act of 1893.

CHAPTER VIII.

COMMON LODGING-HOUSES, CELLAR DWELLINGS, ETC.

THE statutory provisions relating to the subject of this chapter are contained in sects. 71—89 of Part III. of the Public Health Act, 1875; sect. 32 of Part III. of the Public Health Acts Amendment Act, 1890; and sects. 69—75 of Part V. of the Public Health Acts Amendment Act, 1907. To these provisions may be added sect. 314 of the Act of 1875 (relating to the lodging of hop-pickers), the Public Health (Fruit-Pickers' Lodgings) Act, 1882, and sect. 214 of the Merchant Shipping Act, 1894, relating to seamen's lodging-houses.

Public Health Act, 1875.—It is unlawful to let or occupy, or suffer to be occupied separately as a dwelling, any cellar built or rebuilt after the Act, or even if it was built before the Act, if it was not lawfully (*r*) so let or occupied at the time of the passing of the Act (sect. 71).

It is unlawful to let or occupy, or suffer to be occupied separately as a dwelling, any cellar whatsoever, unless certain requisitions mentioned in the section are complied with (sect. 72). It is unnecessary to set out the requisitions, as the section only applies to cellars built and occupied before the commencement of the Public Health Act, 1848.

A person letting, occupying, or suffering to be occupied for hire or rent, any cellar in contravention of the two previous sections, after notice in writing from the local authority is liable to penalties (sect. 73).

(*r*) It would not be *lawfully* so let or occupied if it were built or rebuilt since the commencement of the Public Health Act, 1848, which contained a similar prohibition to the present.

A cellar in which any person passes the night is deemed to be occupied as a dwelling within the meaning of the Act (sect. 74).

Where there have been two convictions in respect of the occupation of a cellar as a separate dwelling (whether against the same person or not) a Court of summary jurisdiction may direct the closing of the premises temporarily, or may empower the local authority to close the same permanently (sect. 75).

Every local authority must keep a register of lodging-house keepers, lodging-houses, and the number of lodgers authorised to be received therein (sect. 76). As to what constitutes a common lodging-house the Court said as follows in *Logsdon* v. *Booth* ([1900] 1 Q. B. 401; 64 J. P. 165; 69 L. J. Q. B. 1; 81 L. T. 602; 48 W. R. 26): "We know of no better description of a common lodging-house than that given many years ago by the law officers, Sir Alexander Cockburn and Sir W. Page-Wood, to the effect that a common lodging-house was that class of lodging-house in which persons of the poorer class are received for short periods, and, although strangers to one another, are allowed to inhabit one common room;" and it was held immaterial that the house is kept for charitable or religious objects, and not for the purposes of gain, and that it is not open to all-comers. In *Logsdon* v. *Trotter* ([1900] 1 Q. B. 617; 64 J. P. 421; 69 L. J. Q. B. 312; 82 L. T. 151; 48 W. R. 365; 19 Cox, C. C. 460), the lodgers were persons of the poorer class who were likely to be in a dirty and insanitary condition, and they occupied part of the house in common. They were, however, of a somewhat better class than those ordinarily found in common lodging-houses. Nevertheless, the house was held to be a common lodging-house. These decisions were upon the Common Lodging-Houses Acts, 1851 and 1853, which are repealed (except so far as relates to the Metropolis) by the present Act. The former statutes, however, like the latter, contain no definition of the term in question.

No person may keep a common lodging-house or receive a lodger therein unless he and the house are registered. When, however, a person so registered dies, his widow or any member

of his family may continue to keep the house for four weeks without being registered as the keeper (sect. 77).

Before a house may be registered as a common lodging-house, it must be inspected and approved for the purpose by an officer of the local authority, and the authority may refuse to register a person as keeper unless he produces a certificate of character in prescribed form signed by three inhabitant householders rated in respect of property of the yearly rateable value of £6 (sect. 78).

The local authority may require the keeper to affix conspicuously to the outside of the lodging-house, and keep undefaced and legible, a notice with the words "Registered Common Lodging-house" (sect. 79).

Every local authority shall from time to time make bye-laws in relation to common lodging-houses for (i.) fixing or varying the number of lodgers and for separation of the sexes, (ii.) promoting cleanliness and ventilation, (iii.) notifying and taking precautions in case of infectious disease, (iv.) the well-ordering of such houses (sect. 80).

Where it appears to the local authority that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such supply can be furnished at a reasonable rate, it may give notice to the owner or keeper to obtain such supply, and in case of default may remove the house from the register until compliance (sect. 81).

The walls and ceilings of common lodging-houses must, under penalties, be lime-washed to the satisfaction of the local authority in the first week of April and October each year (sect. 82).

The local authority may require the keeper of a common lodging-house in which beggars or vagrants are received to report from time to time every person resorting to the house during the preceding day or night (sect. 83).

When a person in a common lodging-house is ill of fever or any infectious disease, the keeper must give immediate notice to the medical officer of health, and also to the poor law relieving officer (sect. 84). This is extended by sect. 32 of the Act of 1890 (where applicable), see under sect. 86, *post*, p. 65.

The local authority is entitled to access at all times to a common lodging-house (sect. 85).

Keepers of common lodging-houses are liable to penalties for (i.) receiving a lodger in an unregistered house (in breach of sect. 77, *supra*, p. 63), (ii.) failing to report (in breach of sect. 83, *supra*, p. 64), (iii.) failing to notify (in breach of sect. 84, *supra*, p. 64) when the sick person has been confined to his bed (sect. 86). With reference to (iii.), it will be noted that it only applies where the sick person is confined to his bed. Where, however, Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, sect. 32 thereof will operate, and this provides that where the keeper fails to give the notice required by sect. 84 of the Act of 1875 he shall be liable to certain penalties. This would apply whether the sick person is confined to his bed or not.

In the case of proceedings against a common lodging-house keeper, if the inmates allege that they are members of the same family the burden of proving the allegation is on the person making it (sect. 87).

If the keeper of a common lodging-house is convicted three times of a breach of this Act the Court may order that for a period not exceeding five years he must not keep a common lodging-house without the previous licence in writing of the local authority granted upon such terms and conditions as the authority may think fit (sect. 88). The local authority has no power under this Act to withdraw a licence except in accordance with this section (*Blake* v. *Kelly* (1877), 52 J. P. 263, where the authority attempted unsuccessfully to revoke the licence of a house of ill repute).

A common lodging-house may consist of only part of a house (sect. 89).

Public Health Acts Amendment Act, 1890.—The effect of the solitary provision of this adoptive (*s*) Act on the subject of the present chapter, viz., sect. 32, is set out in connection with sect. 86 of the Act of 1875 (*supra*).

(*s*) See *ante*, p. 40.

Public Health Acts Amendment Act, 1907.—To bring the following provisions of this Act into operation an order of the Local Government Board is necessary (see *ante*, pp. 44, 45). Furthermore, not less than one month before the time fixed in the order for the coming into operation of this part (Part V.) of the Act, the local authority must give notice of the fact to every common lodging-house keeper in its district (sect. 75 (1)). It will be obvious that where these provisions are made to apply they very largely supplement, and in parts supersede, the corresponding provisions of the Act of 1875.

A local authority may refuse to register any person as a common lodging-house keeper unless satisfied as to his character and fitness (sect. 69).

Registration is to remain in force only for such time (not exceeding one year) as may be fixed by the local authority, but may be renewed from time to time. This only applies to persons newly registered after the commencement of this section (*ibid.*).

The keeper of a common lodging-house or his registered deputy must manage and control the house and exercise supervision over the lodgers, and must be at the house from 9 p.m. to 6 a.m. each day, and the keeper is liable to penalties for non-compliance with this provision without reasonable excuse (sect. 70).

The local authority must keep a register of deputy common lodging-house keepers approved by it. More than one deputy for any keeper may be registered. The local authority may at any time cancel the registration of a deputy if of opinion that he is unfit (sect. 71).

The registration of the keeper of a common lodging-house may be cancelled if he be convicted of any offence against any provision of the Public Health Acts relating to common lodging-houses (sect. 72).

If a person keeps a common lodging-house, he shall be liable to the penalties imposed by sect. 86 of the Act of 1875 (*ante*, p. 65), although he be not registered under sect. 77 of that Act (*ante*, pp. 63, 64) (sect. 73). This seems superfluous.

Every common lodging-house must be provided (a) with

sufficient suitable sanitary conveniences (*t*), having regard to the number of persons who may be received, and where both sexes are received with proper separate accommodation for each sex, (b) with a water supply sufficient for flushing the water-closets and urinals. If default is made after notice in writing to the keeper, the local authority may do the work and recover the expenses summarily, or declare them to be "private improvement expenses" (*u*) (sect. 74).

From the commencement of the part of this Act (Part V.) (where made applicable) containing the foregoing provisions in any district, there is repealed as to such district sect. 78 of the Act of 1875 from the words "and the local authority may" to the end of the section (*v*), and also sect. 88 of the same statute (*w*) (sect. 75 (2)).

Hop, Fruit and Vegetable Pickers.—It is provided by sect. 314 of the Public Health Act, 1875, that any local authority may, if it thinks fit, make byelaws for securing the decent lodging and accommodation of any person engaged in hop-picking within the district of such authority, and this provision is extended to persons engaged in the picking of fruit and vegetables by the Public Health (Fruit-Pickers' Lodging) Act, 1882.

Seamen's Lodging-Houses.—By sect. 214 of the Merchant Shipping Act, 1894, it is provided that—

(1) A local authority hereinafter mentioned whose district includes a seaport may, with the approval of the Board of Trade, make byelaws relating to seamen's lodging-houses in their district, and those byelaws shall be binding upon all persons keeping houses in which seamen are lodged, and upon the owners thereof and persons employed therein.

(*t*) For meaning, see *ante*, p. 29.
(*u*) See *ante*, p. 29.
(*v*) *Ante*, p. 64.
(*w*) *Ante*, p. 65.

(2) The byelaws shall, amongst other things, provide for the licensing, inspection, and sanitary conditions of seamen's lodging-houses, for the publication of the fact of a house being licensed, for the due execution of the byelaws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines, not exceeding fifty pounds, for the breach of any byelaw.

(3) The byelaws shall come into force from a date therein named, and shall be published in the *London Gazette* and in one newspaper at the least circulating in the district, and designated by the Board of Trade.

(4) If the local authority do not within a time in each case named by the Board of Trade make, revoke, or alter, any byelaws under this section, the Board of Trade may do so.

(7) In this section the expression "local authority" means in the administrative county of London the county council, and elsewhere in England the local authority under the Public Health Acts (*x*) and the expression "district" means the area under the authority of such local authority.

It may be mentioned here that provision exists to enable local authorities to make byelaws in respect of houses let in lodgings, other than common lodging-houses. This provision is set out *post*, Ch. XIX., p. 168.

(*x*) See *ante*, p. 28.

CHAPTER IX.

NUISANCES.

Nuisance at Common Law.—Nuisance in general is defined by Sir Frederick Pollock in his well-known work on the Law of Torts as "the wrong done to a man by unlawfully disturbing him in the enjoyment of his property, or, in some cases, in the exercise of a common right." Nuisances are public or private.

Public Nuisances.—A public (or common) nuisance may be defined as "an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, health, property, or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all his Majesty's subjects" (*y*). To constitute a public nuisance it must affect the public generally or some considerable part of the public, *e.g.*, the inhabitants of a parish. A public nuisance is punishable criminally as an indictable offence, but "a private action can be maintained in respect of a public nuisance by a person who suffers thereby some particular loss or damage beyond what is suffered by him in common with all other persons affected by the nuisance" (*z*).

Private Nuisances.—A private nuisance is "some unauthorised user of a man's own property causing damage to the property of another, or some unauthorised interference with the property or proprietary rights of another, causing damage, but not amounting to trespass" (*a*). A private nuisance is remediable by action by the person affected, and unlike a public nuisance, is not punishable criminally.

(*y*) From the Criminal Code (Indictable Offences) Bill before Parliament in 1879-1880.

(*z*) Pollock's Torts, sub. Nuisance.

(*a*) Underhill's Torts, sub. Nuisance.

When an action lies for a public or private nuisance, the claim may include a demand for an injunction as well as damages, and an injunction to restrain a public nuisance, where no action lies at the suit of an ordinary person, can be obtained on the relation of the Attorney-General.

Statutory Nuisances.—The common law has been supplemented by the creation of a large number of statutory nuisances, particularly in the domain of public health. An examination of these will show that many of them are also nuisances at common law, *i.e.*, independently of any statute. The reason for the inclusion of any particular act or default in any statutory creation of nuisances may be either to constitute as a nuisance something which is not, or which may not be, a nuisance at common law; or to make it subject to some remedial procedure not available at common law, generally that of a Court of summary jurisdiction (*b*).

The principal provisions relating to nuisances contained in the Public Health Acts are sects. 91—111 of the Act of 1875, and sect. 35 of the Act of 1907.

Public Health Act, 1875.—The following are to be deemed nuisances liable to be dealt with summarily in the manner provided by the Act:—(1) Any premises in such a state as to be a nuisance or injurious to health. (2) Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain or ashpit so foul or in such a state as to be a nuisance or injurious to health. (3) Any animal so kept as to be a nuisance or injurious to health. (4) Any accumulation or deposit which is a nuisance or injurious to health. (5) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family. (6) Any factory, workshop, or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are

(*b*) For further elucidation of the subject of Nuisance, consult Encyclopædia of the Laws of England, tit. Nuisance.

a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein. (7) Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse or gaswork, or in any manufacturing or trade process whatever; and any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance (sect. 91). The foregoing list is supplemented where sect. 35 of the Public Health Acts Amendment Act, 1907, has been made applicable (see *infra*, p. 77). It must be observed that many of the nuisances enumerated in this section are also such independently of the statute. They would not, however, be punishable summarily. In such cases the common law remedy by indictment would still lie, but of course a person could not be both indicted and tried summarily; *nemo bis vexari debet* (see sect 111, *post*, pp. 76, 77). A person, moreover, who has been punished in such a case either summarily or upon indictment would not be exempt from an action for damages at the suit of an individual who could show that he had suffered damage over and above the rest of the public. As to (4), the section further provides that a penalty shall not be imposed upon any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health. As to (7), the section further provides that where a person is summoned before any Court in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Court shall hold that no nuisance is created within the meaning of this Act, and dismiss the complaint, if it is satisfied that such fireplace or furnace is constructed in such manner as to consume as far as practicable.

having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.

It is the duty of local authorities to inspect their district for the discovery of nuisances under the Act, and to take the necessary steps for abating same. They must also enforce the provisions of any Act in force in the district requiring fireplaces and furnaces to consume their own smoke (sect. 92).

Any person aggrieved by any nuisance under the Act, or any two inhabitant householders of the district, or any officer of the local authority, or the relieving officer or constable or officer of the police force of the district may give information to the local authority (sect. 93).

On receipt of any information as to a nuisance, the local authority, if satisfied as to its existence, must serve a notice on the person by whose act, default or sufferance the nuisance arose or continues, or if such person cannot be found then on the owner or occupier of the premises, requiring him to abate the same within the specified time. Where, however, the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier of the premises, the notice must be served on the owner. Further, where the person causing the nuisance cannot be found, and the nuisance has not arisen or continued by the act, default or sufferance of owner or occupier, the local authority may abate the nuisance itself without serving any notice (sect. 94). This is supplemented by sect. 100 (*post*, p. 73).

On default by a person upon whom notice to abate a nuisance has been served, or if, though abated, the local authority considers the nuisance is likely to recur, the local authority must take steps to have such person summoned before a Court of summary jurisdiction (sect. 95).

If the Court is satisfied that the nuisance exists, or, though abated, is likely to recur, it must make an order requiring the person summoned to comply with the notice, or prohibiting the recurrence of the nuisance, and the execution of any necessary works, or an order for both requiring abatement and prohibit-

ing the recurrence. The Court may also impose a penalty, and shall give directions as to costs (sect. 96).

Where in the case of any nuisance brought before the Court as aforesaid, the Court is satisfied that it is such as to render a house or building unfit for human habitation, the Court may prohibit its being so used until the Court considers that it has been rendered fit for the purpose. Upon being so satisfied the Court may revoke its previous order (sect. 97).

A person disobeying the order of the Court, or not exercising due diligence in obeying it, is liable to penalties. Furthermore, the local authority may in such case enter the premises, abate the nuisance, and do whatever may be necessary; and recover the expense summarily (sect. 98).

If a person appeals to the Court of Quarter Sessions against the order of the Court of summary jurisdiction, no penalty shall arise, nor shall any proceedings be taken, or work be done under such order until after the determination of the appeal, or until the appeal ceases to be prosecuted (sect. 99).

Where it appears to the Court that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, the Court may address its order to the local authority itself, which must then be executed by the latter (sect. 100). This supplements sect. 94 (*ante*, p. 72).

Any thing removed by the local authority in abating a nuisance may be sold by public auction. The proceeds are to be applied in payment of the expenses incurred in abating the nuisance, and any surplus is to be paid to the owner of the thing (sect. 101).

The local authority has a right of admission on any premises for the purpose of examining as to the existence of any nuisance, or of enforcing the provisions of any Act in force requiring fireplaces and furnaces to consume their own smoke, and in connection with abatement and prohibition orders. If such admission is refused an order may be obtained from a justice requiring the person having custody of the premises to admit the local authority, and if no such person can be found,

the justice shall authorise the local authority to make entry on the premises (sect. 102).

A person who refuses to obey the order of a justice to admit the local authority is liable to penalties (sect. 103).

The costs and expenses of execution of the provisions of this Act relating to nuisances is deemed to be money paid for the use and at the request of the person on whom an order of abatement or prohibition, or as the case may be, is made. If the order is made on the local authority, or if no order is made, but the nuisance is proved to have existed when complaint was made or notice given, then such costs and expenses are deemed to be money paid for the use and at the request of the person by whose act or default the nuisance was caused. In the case of nuisances caused by the act or default of the owner of the premises, such costs or expenses may be recovered from the person who is, for the time being, owner thereof, provided that they shall not exceed one year's rack-rent (*c*). Such costs and expenses, and any penalties, may be recovered summarily or in any county or superior Court, and the Court has power to apportion the same between the persons liable. Costs and expenses recoverable from an owner of premises may be recovered from the occupier for the time being, but the latter may after payment deduct the same from his rent, and he shall not be required to pay any further sum than the amount of rent then due. The local authority may, however, give such occupier notice not to pay any accruing rent without deducting such costs or expenses, and he must then deduct the amount from such accruing rent. He loses his right of deduction if he refuses to disclose to the local authority the amount of the rent, and the name and address of the person to whom it is payable. Nothing in these provisions is to affect as between themselves any contract between landlord and tenant for the payment of outgoings (sect. 104).

Any person aggrieved by a nuisance or any inhabitant of the district or any owner of premises within the district can take similar proceedings to those which can be taken by the

(*c*) For definition, see *ante*, p. 28.

local authority itself for the bringing of persons liable before a Court of summary jurisdiction, and for obtaining orders of abatement, prohibition, &c. The Court may, however, adjourn the proceedings for an examination of the premises where the nuisance is alleged to exist, and for such purpose may authorise the entry of a constable or other person. The Court may also authorise a constable or other person to do what is necessary for executing an order, and to recover the expenses summarily from the person on whom the order was made. Such constable or other person authorised has the like powers, and is subject to the like restrictions as if he were an officer of the local authority (sect. 105).

Where the Local Government Board is satisfied that a local authority has made default in doing its duty in relation to nuisances under the Act, the Board may authorise any officer of police in the district to institute any proceedings which the authority might have institutod, and such officer may recover from the defaulting authority any expenses incurred by him and not paid by the person proceeded against. The police officer must, however, not enter in any house or part of a house used as a dwelling of any person without such person's consent, except on the warrant of a justice (sect. 106).

If the local authority considers that tho aforesaid summary proceedings would prove an inadequate remedy, they may proceed in the High Court (sect. 107). Proceedings under this section must be by action in the nature of an information with the sanction of the Attorney-General (*Wallasey Local Board* v. *Gracey* (1887), 36 Ch. D. 593; 51 J. P. 740; 56 L. J. Ch. 739; 57 L. T. 51; 35 W. R. 694), unless there is special damage (*Tottenham Urban District Council* v. *Williamson*, [1896] 2 Q. B. 353; 60 J. P. 725; 65 L. J. Q. B. 591; 75 L. T. 238; 44 W. R. 676). The Court will not grant an injunction under this section where the nuisance complained of is trivial (*Llandudno Urban District Council* v. *Wood*, [1899] 2 Ch. 705; 63 J. P. 775; 68 L. J. Ch. 623; 81 L. T. 170; 48 W. R. 43; and *Behrens* v. *Richards*, [1905] 2 Ch. 614; 69 J. P. 381; 74 L. J. Ch. 615), nor where it has been remedied since the date of the writ (*Att.-Gen.* v. *Squires & Sons* (1906), 70 J. P. N.

545), so long as there is no reasonable probability of the nuisance being continued (*per* Parker, J., *Dams* v. *Locke-King*, Times Newspaper, May 23rd, 1908).

Where a nuisance under this Act within one district appears to be wholly or partially caused by some act or default committed in another district, the local authority of the former may take the same proceedings as though it had been committed in the former's district, but any summary proceedings must take place in the Court having jurisdiction in the latter (sect. 108).

Where there have been two convictions in respect of the overcrowding of a house within three months, a Court of summary jurisdiction may on the application of the local authority close the house for such period as the Court may think necessary. The convictions need not be against the same person (sect. 109). This refers to the fifth nuisance comprised in sect. 91 (*ante*, p. 70).

The foregoing provisions relating to nuisances apply to any ship or vessel lying in any river, harbour, or other water within the district of a local authority, as though it were a house. Any ship or vessel lying in a river, harbour, or other water not within the district of a local authority shall be deemed to be within the district of such local authority as the Local Government Board may prescribe, and if it does not so prescribe, then of the local authority of the next adjoining district. In such cases the master or other officer in charge of the vessel is to be deemed the "occupier." This section does not apply to any vessel under the command or charge of a commissioned naval officer, or to any vessel belonging to a foreign government (sect. 110). By the Public Health (Ships, &c.) Act, 1885, this section also applies to certain of the provisions of this Act relating to infectious diseases and hospitals (see *post*, Ch. XII., p. 93, and Ch. XIII., p. 113).

The provisions of this Act relating to nuisances shall not affect any right, remedy or proceeding under any other provisions of this Act, or under any other Act or independently of

statute; but no person shall be punished more than once for the same offence (sect. 111). (See *ante*, p. 71.)

Public Health Acts Amendment Act, 1907.—As to when this Act applies, see *ante*, pp. 44, 45. It provides that for the purposes of the Public Health Act, 1875—

(1) Any cistern used for the supply of water for domestic purposes so placed, constructed, or kept as to render the water therein liable to contamination, causing or likely to cause risk to health; (2) Any gutter, drain, shoot, stack-pipe, or down-spout of a building which, by reason of its insufficiency or its defective condition, shall cause damp in such building or in an adjoining building; and (3) any deposit of material in or on any building or land which shall cause damp in such building or in an adjoining building so as to be dangerous or injurious to health, shall be deemed to be a nuisance within the meaning of the said Act (sect. 35). When this section applies, all the previously mentioned provisions as to abatement, &c. of nuisances will become applicable, as though the foregoing nuisances were included in sect. 91 of the Act of 1875 (*ante*, pp. 70, 71).

CHAPTER X.

OFFENSIVE TRADES.

The provisions of the subject of this chapter are contained in sects. 112—115 of the Public Health Act, 1875, and sect. 51 of the Public Health Acts Amendment Act, 1907.

Public Health Act, 1875.—No person must establish in an *urban* sanitary district without the consent of the authority thereof any offensive trade, namely, blood boiler, bone boiler, fellmonger, soap boiler, tallow melter, tripe boiler, or any other noxious or offensive trade, business or manufacture (sect. 112). To fall within the last words it is necessary (i.) that the business must be in itself noxious or offensive and *ejusdem generis* with the businesses above specified, and (ii.) so carried on as to have in fact a noxious or offensive effect. Hence a fish-frying business is not within the section, although carried on offensively (*Braintree Local Board* v. *Boyton* (1885), 52 L. T. 99; 48 J. P. 582); while bone boiling carried on by a dry process so as to cause no offensive smell was held not to be within the section (*Cardiff Manure Co.* v. *Cardiff Union* (1890), 54 J. P. 661). Of course, a business which is not noxious or offensive within this section may nevertheless be a nuisance at common law, and render the owner liable accordingly, *e.g.*, a smallpox hospital is not within the section (*Withington Local Board* v. *Manchester Corporation*, 62 L. J. Ch. 393; [1893] 2 Ch. 19; 2 R. 367; 68 L. T. 330; 41 W. R. 306; 57 J. P. 340), but it may be a nuisance at common law (*Metropolitan Asylums District* v. *Hill* (1881), 6 App. Cas. 193; 45 J. P. 664; 50 L. J. Q. B. 353; 44 L. T. 653; 29 W. R. 617).

An *urban* sanitary authority may make byelaws with re-

spect to such offensive trades as are established with their consent in order to prevent or diminish the noxious or injurious effects thereof (sect. 113).

In an *urban* sanitary district the medical officer of health or any two legally qualified medical practitioners, or any ten inhabitants, may certify that certain premises are a nuisance or injurious to health, and thereupon the authority must take steps to bring before a Court of summary jurisdiction the person by or for whom the trade complained of is carried on. The premises referred to are candle-houses, melting-houses, melting-places, soap-houses, slaughter-houses, places for boiling offal or blood, boiling, burning or crushing bones, or used for any trade, business, process or manufacture causing effluvia. If the Court considers that the business carried on is a nuisance or causes any effluvia which is a nuisance or injurious to the health of the inhabitants, the person charged, whether owner or occupier, or foreman or other person employed by the owner or occupier, is liable to penalties, unless it be shown that such person has used the best practicable means for abating the nuisance, or preventing or counteracting the effluvia. The Court, however, may suspend its determination if the person charged undertakes to do what the Court deems proper for abating the nuisance or mitigating or preventing injurious effects from the effluvia, or if he gives notice of appeal to quarter sessions (*d*). Alternatively, the authority may take proceedings in the High Court (sect. 114). It will be noted that this applies to a number of trades not included in sect. 112 (*ante*, p. 78). An effluvium may be within the section which is calculated to affect sick persons, although it would not affect persons in sound health (*Malton Local Board* v. *Malton Farmers' Manure Co.* (1879), 4 Ex. D. 302; 44 J. P. 155; 49 L. J. M. C. 90; 40 L. T. 755; 27 W. R. 802). It will be observed that the expressions "nuisance" and "injurious to health" are alternative, and "effluvia," which comes under either, is within the section (*per* Steven, J., in *Malton Local Board* v. *Malton Farmers' Manure Co.*, *ibid.*, *supra*).

(*d*) As to procedure on appeal to Quarter Sessions, see Wrottesley and Jacobs' Law and Practice of Criminal Appeals, Chap. IV.

The foregoing provisions apply even where the effluvium comes from another district, but the person summoned must be summoned in a Court having jurisdiction over his own district (sect. 115).

Public Health Acts Amendment Act, 1907.—Where the section has been made applicable (as to which see *ante*, p. 44), sect. 112 of the Act of 1875 (*ante*, p. 78) is to be read as though the words "any other trade, business, or manufacture, which the local authority declare by order confirmed by the Local Government Board, and published in such manner as the Board direct, to be an offensive trade," were substituted for the words "any other noxious or offensive trade, business, or manufacture" therein. Furthermore, the local authority may make byelaws with respect to any trade which is an offensive trade under sect. 112 of the Public Health Act, 1875, as amended by this Act, in order to prevent or diminish any noxious or injurious effects of the trade (sect. 51). It will be observed that the Act of 1907 can be applied in the first instance to either *urban* or *rural* authorities, while the sections of the Act of 1875 dealt with in this chapter apply in the first instance only to *urban* authorities, although, of course, they may be extended to *rural* authorities by order of the Local Government Board (*ante*, Ch. III., p. 18). See also "Alkali, &c. Works," *post*, p. 175.

CHAPTER XI.

UNSOUND FOOD.

The principal statutory provisions on this subject are those of sects. 116—119 of the Public Health Act, 1875, sects. 28 and 31 of Part III. of the Public Health Acts Amendment Act, 1890, and the Public Health (Regulations as to Food) Act, 1907.

Public Health Act, 1875.—A medical officer of health or inspector of nuisances may at all reasonable times inspect any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk exposed for sale or deposited in any place for the purpose of sale or of preparation for sale, and intended for the food of man, and if it appears to such official that such food is diseased or unsound or unwholesome, or unfit for the food of man, he may seize it and carry it away (either himself or by an assistant), in order to have it dealt with by a justice. The onus of proving that any of the before-mentioned things was not exposed or deposited for the purpose mentioned or was not intended for the food of man is upon the party charged (sect. 116). As to what constitutes a reasonable time, Sunday is not necessarily unreasonable (*Small* v. *Bickley* (1875), 39 J.P. 422; 32 L.T. 726—decided on the Nuisances Removal Amendment Act, 1863, ss. 2 and 3). Food has been held to be exposed for sale when on a cart being carried from the slaughter-house to a place of manufacture of preserved meats (*Daly* v. *Webb* (1869), Ir. R. 4 C. L. 309; 18 W.R. 631—decided on the Nuisances Removal Amendment Act, 1863, s. 2).

If it appears to the justice that any such food so seized is diseased, or unsound, or unwholesome, or unfit for the food of man, he must condemn and order it to be destroyed, or at

any rate so disposed of as to prevent it from being exposed for sale for the food of man. Furthermore, the person to whom the food belongs or belonged at the time of exposure for sale or in whose possession or on whose premises it was found, is liable to penalties. The justice who convicts the offender need not be the one who ordered the food to be disposed of or destroyed (sect. 117). It may be observed that the owner of the food is not entitled as of right to attend and give evidence in opposition to the condemnation of the food (*White* v. *Reafern* (1879), 5 Q. B. D. 15; 44 J. P. 87; 49 L. J. M. C. 19; 41 L. T. 524; 28 W. R. 168); but the justice may, if he thinks fit, hear such evidence (*In re Baker and the Birkenhead Corporation*, [1893] 2 Q. B. 77; 58 J. P. 7; 62 L. J. M. C. 107; 69 L. T. 220; 41 W. R. 513; 4 R. 438). It must be observed further that the expression used in the present section is "*unfit* for the food of man," and not "intended for the food of man," as in sect. 116, *supra*, p. 81). On being asked to condemn, therefore, the justice has no jurisdiction to consider whether the food comes within the latter expression (*Thomas* v. *Van Os*, [1900] 2 Q. B. 448; 64 J. P. 582; 69 L. J. Q. B. 665; 82 L. T. 845; 49 W. R. 57; 16 T. L. R. 388—decided on the Public Health (London) Act, 1891, s. 47). The expression "intended for the food of man" refers to the food at the time of its unsoundness, and there can be no conviction if the accused shows that at that particular time it was not intended for the food of man (*Wieland* v. *Butler-Hogan* (1904), 68 J. P. 310; 78 L. J. K. B. 513; 90 L. T. 588; 53 W. R. 63; 20 T. L. R. 419; 20 Cox, C. C. 630; 2 L. G. R. 1074). *Mens rea* or guilty knowledge on the part of the accused is unnecessary (*Hobbs* v. *Winchester Corporation*, 79 L. J. K. B. 1123; [1910] 2 K. B. 271; 102 L. T. 841; 74 J. P. 413; 8 L. G. R. 1072; 26 T. L. R. 557). It is therefore immaterial that the unsoundness consists in a disease which could only be detected on killing the animal, and that the carcase was seized immediately upon slaughter (*Cork Rural Council* v. *Walsh*, [1908] 2 Ir. R. 234—K. B. D.).

A person who prevents the medical officer of health or inspector of nuisances from entering and inspecting, or who

obstructs or impedes such officer, inspector, or his assistant, is liable to penalties (sect. 118).

Upon complaint on oath by the medical officer of health or inspector of nuisances or other officer of a local authority, any justice may grant a warrant to enter a building where such official has reason for believing that any such food is kept or concealed, and to search for, seize, and carry the same away (sect. 119).

Public Health Acts Amendment Act, 1890.—Where Part III. of this Act has been adopted (see *ante*, p. 40), the sections above dealt with of the Act of 1875, namely, 116—119, apply to all articles intended for the food of man, sold or exposed for sale, or deposited in any place for the purpose of sale, or of preparation for sale within the district of any local authority. Furthermore, the justice may condemn the food, and order it to be destroyed or disposed of if satisfied that it is diseased, unsound, unwholesome or unfit for the food of man, although it has not yet been seized (sect. 28).

Furthermore, the occupier of a licensed slaughter-house convicted under the foregoing provisions is liable to have his license revoked (see *post*, Ch. XVII., p. 147) (sect. 31).

Public Health (Regulations as to Food) Act, 1907.—The effect of this statute is as follows: The Public Health Act, 1896 (*post*, Ch. XII., p. 103) makes certain provision with respect to epidemic, endemic and infectious diseases. The present Act provides that the power of making regulations under the Public Health Act, 1896, and the enactments mentioned in that Act, shall include the power of making regulations authorising measures to be taken for the prevention of danger arising to public health from the importation, preparation, storage, and distribution of articles of food or drink (other than drugs or water) intended for sale for human consumption, and, without prejudice to the generality of the powers so conferred, the regulations may (a) provide for the examination and taking of samples of any such articles; (b) apply, as respects any matter to be dealt with by the regulations, any pro-

visions in any Act of Parliament dealing with the like matters, with the necessary modifications and adaptations; (c) provide for the recovery of any charges authorised to be made by the regulations for the purposes of the regulations or any services performed thereunder (sect. 1 (1)).

For the purposes of regulations made under this Act, articles commonly used for the food or drink of man shall be deemed to be intended for sale for human consumption, unless the contrary is proved (sect. 1 (2)).

The subject of this chapter must not be confused with that covered by the Sale of Food and Drugs Acts, 1875—1907, which relate not to the unsoundness, but to the purity and genuineness of the articles sold (*post*, p. 174). See also "Fertilisers and Feeding Stuffs," "Bread," "Tea and Coffee," and "Beer and Hops," *post*, p. 182, and "Dairies, Cowsheds, and Milkshops," *post*, p. 176.

It may be mentioned that "at common law it is an indictable misdemeanour to possess or expose for sale or to sell food unfit for human consumption (*R.* v. *Mackarty* (1804), 6 East, 133; *R.* v. *Trew*, 2 East, P. C. 821; *R.* v. *Dixon* (1814), 3 M. & S. 11; 15 R. R. 301; *R.* v. *Haynes* (1815), 4 M. & S. 214; *Shillito* v. *Thompson* (1875), 1 Q. B. D. 12); and if the sale was made with knowledge of the condition of the food, and death ensue by eating the food, the seller may be indicted for manslaughter (*R.* v. *Stevenson*, 3 F. & F. 106; *R.* v. *Kempson* (1893), Oxford Circuit, 28 L. J. 477)."—Encyclopædia of the Laws of England, tit. "Food."

CHAPTER XII.

INFECTIOUS, EPIDEMIC, AND ENDEMIC DISEASES.

The principal provisions relating to the subject-matter of this chapter are contained in sects. 120—130 and 134—140 and 142 of Part III. of the Public Health Act, 1875, the Epidemic and Other Diseases Prevention Act, 1883, the Public Health (Ships, &c.) Act, 1885, the Infectious Disease (Notification) Act, 1889, the Infectious Disease (Prevention) Act, 1890, the Public Health Act, 1896, the Public Health (Ports) Act, 1896, the Infectious Disease (Notification) Extension Act, 1899, the Public Health Act, 1894, and sects. 52—59 and 61—68 (*i.e.*, Part IV.) of the Public Health Acts Amendment Act, 1907. Connected also with the subject of this chapter are the Canal Boats Acts, 1877 and 1884, the Isolation Hospitals Acts, 1893 and 1901, and the Vaccination Acts, 1867 to 1898, and 1907.

Before proceeding to a consideration of the above provisions it is desirable to determine the meaning of the terms "infectious," "epidemic," and "endemic."

The expression "infectious," as applied to disease, may be said to mean liable to be transmitted from one person to another. Sometimes the expression is used in contradistinction to "contagious." In such case the former expression is taken to denote transmission of the disease by such subtle means as air or water, as distinguished from the more palpable means of transmission denoted by the latter expression, such as direct contact with a part affected with a disease or through the medium of the bodily excretions and exhalations. It is believed, however, that when the expression "infectious" is used in the statutes about to be dealt with, the first mentioned larger meaning of the term is the one intended, in which case it would

include "contagious." It may be added that this larger use of the expression appears to be medically justifiable (see Quain's Dictionary of Medicine, tit. "Infection").

"Epidemic" has been defined as prevalent among a people or community at a special time and produced by some special causes not generally present in the affected locality (Sydenham Society Lexicon). "Endemic," on the other hand, means habitually prevalent in some country, and due to permanent local causes (*Murray's New English Dictionary*).

"'Endemic' diseases are usually spoken of as contrasted with 'epidemic' and 'sporadic,' 'endemic' indicating that a disease infests habitually the population within certain geographical limits, and also that it is incapable of being transferred or communicated beyond those limits; while on the other hand a disease is termed 'epidemic' if it is transmitted with reference to a locality, and 'sporadic' if it occurs in isolated instances only. It should be mentioned, however, that it is quite possible for an endemic disease afterwards to become epidemic. . . . The theory, accordingly, of endemic diseases is that they are in some way or other connected with the soil" (Chambers' Encyclopædia). An epidemic is "a disease which attacks numbers of persons in one place simultaneously or in succession, and which, in addition, is observed to travel from place to place often in the direction of the most frequented line of communication" (*ibid.*). "Endemic is a term applied to diseases which affect numbers of persons simultaneously in such manner as to show a distinct connection with certain localities" (*ibid.*).

In perusing the following provisions it will be noted that the following expressions are used from time to time: "infectious disease," "dangerous infectious disorder," "infectious disorder," "epidemic, endemic, or infectious disease," "formidable epidemic, endemic, or infectious disease," and the reader must observe to which of these respectively the provisions apply. The expressions "infectious," "epidemic" and "endemic" have already been dealt with (*supra*), the following remarks may be made upon the terms "disease," "disorder," "dangerous," and "formidable."

The difference between "disease" and "disorder" would appear to be that the former includes structural change while the latter does not. "'Disorder' is a term frequently used in medicine to imply functional disturbance in opposition to manifest structural change" (Sydenham Society Lexicon). In the following provisions, therefore, "disorder" may be regarded as the wider term, and intended to include "disease." "Dangerous" and "formidable" may perhaps be distinguished thus: "Dangerous" has reference to the possible effect upon the individual affected with the disease, while "formidable" has reference not so much to the severity of the disease in relation to the individual as to the likely difficulty in overcoming, resisting, or dealing with it, in some community or locality (when it takes "infectious," "epidemic," or "endemic" form), so as to prevent the occurrence of further cases of contraction.

Public Health Act, 1875.—Where a local authority is of opinion (the medical officer of health or other legally qualified medical practitioner having so certified) that the cleansing and disinfecting of any house and of any articles therein likely to retain infection would tend to prevent or check infectious disease, it must give the owner or occupier notice in writing requiring him to cleanse and disinfect such house and articles within a specified time. If the recipient of the notice makes default he becomes liable to penalties, and the authority must then do the necessary cleansing with power to recover the expense summarily from the person making default. Where any owner or occupier is, through poverty or otherwise, unable properly to carry out the above requirements, the authority may do the necessary cleansing and disinfecting at its own expense (sect. 120). For the extension of this section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

A local authority may direct the destruction of any bedding, clothing or other articles which have been exposed to infection from any dangerous infectious disorder, and may give compensation for the same (sect. 121). For the extension of this

section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

A local authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge (sect. 122). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

Any local authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination (sect. 123). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

Where there exists in or within a convenient distance of the district, a suitable hospital or place for the reception of the sick, any person suffering from a dangerous infectious disorder who is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board a ship, may be removed to such hospital or place at the cost of the local authority. It is necessary, however, to obtain the certificate of a legally qualified medical practitioner, and the consent of the superintending body of the hospital or place. The order may be addressed to a constable or officer of the authority. Disobedience or obstruction of such order is punishable with penalties. Where the person is in a common lodging-house, the order may be made by the authority instead of by a justice (sect. 124). Upon a summons for disobedience or obstruction the Court cannot go into the question of the validity of the order (*R.* v. *Davey, Ex parte Bishop*, [1899] 2 Q. B. 301; 63 J. P. 515; 68 L. J. Q. B. 675; 80 L. T. 798). For the extension of this section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

A local authority may make regulations for removing to any hospital to which the authority is entitled to remove patients, and for keeping there so long as may be necessary any person brought within the district by ship or boat who is infected with a dangerous infectious disorder. Such regulations must be approved by the Local Government Board, and may impose penalties on offenders against same (sect. 125). For the extension of this section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

Any person who (1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner or conductor or driver thereof that he is so suffering; or (2) being in charge of any person so suffering, so exposes such sufferer; or (3) gives, lends, sells, transmits or exposes, without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disorder, is liable to penalties. In the case of entering a public conveyance, the Court must order the person to pay the owner or driver the loss and expense incurred in disinfecting the conveyance (see next section). Proceedings are not to be taken against persons transmitting, with proper precautions, any bedding, clothing, rags, or other things, for the purpose of having the same disinfected (sect. 126). Apart from statute, the common law hits at the exposure of infected persons by a liability (a) to indictment (*R.* v. *Vantandillo* (1815), 4 M. & S. 73; and *R.* v. *Burnett* (1815), 4 M. & S. 272), and (b) to action for damages (*Best* v. *Stapp* (1872), 2 C. P.. D. 191). For the extension of this section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

The owner or driver of a public conveyance must, under penalties, provide for its immediate disinfection after it has

to his knowledge conveyed any person suffering from a dangerous infectious disorder. Such owner or driver is not bound to convey a person so suffering until he has been paid the loss or expense incurred by him in such disinfection (sect. 127). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

A person must not, under penalties, knowingly lend for hire any house or room in which anyone has been suffering from a dangerous infectious disorder without having the same and all articles therein liable to retain infection, disinfected to the certified satisfaction of a legally qualified medical practitioner. An innkeeper receiving a guest is within this provision (sect. 128). For the extension of this section to ships, see the Public Health (Ships, &c.) Act, 1885 (*post*, p. 93). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

A person letting for hire a house or part of a house, or showing it for such purpose is bound, under penalties, to answer truly any question put to him by a person negotiating for the hire as to whether there has been therein any person suffering from any dangerous infectious disorder within the previous six weeks (sect. 129). For the extension of this section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

The Local Government Board may from time to time make regulations as to the treatment of persons affected with cholera or any other epidemic, endemic or infectious disease, and as to the prevention of the spread of them. These regulations may be made to apply not only on land but also on the seas, rivers and waters of the Kingdom, and on the high seas within three miles of the coast. The regulations must be published in the London Gazette, and such publication is conclusive evidence (*e*) thereof (sect. 130). Penalties for violation of regulations are provided by the Public Health Act, 1896, s. 1 (3).

(*e*) A complete copy of the "Gazette" must be produced, or at any rate the part produced must contain the imprint of the King's printer and the statement that it is published by authority: *R.* v. *Lowe* (1883), 47 J. P. 535; 52 L. J. M. C. 122; 48 L. T. 768.

This section is extended by the Public Health Act, 1896 (*post*, p. 103), the Public Health Act, 1904 (*post*, p. 104), and the Public Health (Regulations as to Food) Act, 1907 (*ante*, p. 83). For the extension of the section to canal boats, see the Canal Boats Acts, 1877 and 1884 (*post*, pp. 173, 174).

Whenever any part of England appears to be threatened with, or is affected by any formidable epidemic, endemic or infectious disease, the Local Government Board may from time to time make regulations for any of the following purposes, viz.: For the speedy interment of the dead; for house to house visitation; for the provision of medical aid and accommodation; for the promotion of cleansing, ventilation, and disinfection; and for guarding against the spread of disease; and may by order make such regulations applicable to the whole or any part of the district of any local authority and to any vessels on inland waters, or on arms or parts of the sea within the jurisdiction of the Admiralty (sect. 134). Penalties for violation of regulations are provided by the Public Health Act, 1896, s. 1 (3) (*post*, p. 103), and see also sect. 140 (*post*, p. 92). This section is extended by the Public Health Act, 1896 (*post*, p. 103), the Public Health Act, 1904 (*post*, p. 104), and the Public Health (Regulations as to Food) Act, 1907 (*ante*, p. 83). As to borrowing by the local authority in such a crisis as indicated in this section, see the Epidemic and Other Diseases Prevention Act, 1883 (*post*, p. 92).

The regulations and orders must be published in the London Gazette, and such publication is conclusive evidence (*f*) thereof (sect. 135).

Where such regulations are in force the local authority of the district must see to their execution and must provide medical or other officers or persons, and do all such other things as may be necessary for mitigating the disease and for the execution of the regulations. The authority may also take proceedings for the violation or neglect of the regulations (sect. 136).

The local authority and other officers have power of entry on any premises or vessel for the aforesaid purposes (sect. 137).

(*f*) See *ante*, p. 90, footnote.

Poor law medical officers or other medical practitioners are entitled to extra remuneration for services in connection with the regulations aforesaid rendered on board a vessel, which is recoverable from the captain on behalf of the owners. In case of dispute the remuneration is to be settled by a Court of summary jurisdiction (sect. 138).

The Local Government Board may authorise or require local authorities to act together for the purposes of the provisions relating to prevention of epidemic diseases (sect. 139).

Violation of any such regulation or obstruction of any person acting thereunder involves penalties (sect. 140). This provision appears to be swamped by sect. 1 (3) of the Public Health Act, 1896 (*post*, p. 103).

Where the body of a person who has died of an infectious disease is retained in a room in which persons live or sleep, the justice may (on a certificate signed by a legally qualified medical practitioner) order the body to be removed at the cost of the local authority to any mortuary provided by the authority, and direct the same to be buried within a time limited in the order. Unless the friends or relations of the deceased undertake to bury the body within the time limited, and do in fact bury it, the relieving officer must bury it at the expense of the poor rate. The expense, however, may be recovered summarily from any person liable to pay the expense of the burial. Persons obstructing the execution of the order of the justice are liable to penalties. The foregoing applies also where the retention is of a dead body in such a state as to endanger the health of the inmates of the house or room, even though the person did not die of infectious disease (sect. 142). It will be observed that this provision is not confined to bodies of persons who have died of infectious disease.

The Epidemic and Other Diseases Prevention Act, 1883.—This statute provides that where the Local Government Board makes regulations for the purposes mentioned in sect. 134 of the Act of 1875 (*ante*, p. 91), the authorities which have to administer such regulations may borrow money under the provisions of the borrowing powers of the Act of 1875 as

though such purposes were "works," and further, the Local Government Board may dispense in urgent cases with the preliminary public notice or inquiry which otherwise would be necessary to such borrowing (sect. 2).

Public Health (Ships, &c.) Act, 1885.—The purport of this statute, so far as it bears upon the subject of the present chapter, is as follows: Sect. 110 of the Act of 1875 provides that the provisions of that Act relating to nuisances shall apply to any ship or vessel lying in any river, harbour or other water within the district of a local authority as though it were a house, &c. (see more fully, *ante*, p. 76). The present Act provides that such sect. 110 shall have effect not only for the purpose of the provisions of the Act of 1875 relating to nuisances, but also for the purpose of certain provisions of that Act relating to infectious diseases, namely, sect. 120 (*ante*, p. 87), sect. 121 (*ante*, p. 87), sect. 124 (*ante*, p. 88), sect. 125 (*ante*, p. 89), sect. 126 (*ante*, p. 89), and sect. 128 (*ante*, p. 90) (sect. 2).

The Infectious Disease (Notification) Act, 1889.—This statute, formerly adoptive, is now compulsory by virtue of the Infectious Disease (Notification) Extension Act, 1899. It applies not only to *urban* and *rural*, but also to port sanitary authorities (sect. 2). The application to port sanitary authorities is important as the Public Health Act, 1875, which by sects. 287—292 provides for the creation of port sanitary authorities, merely enables the Local Government Board to assign to any such authority the powers, &c. under *that* Act. Any further extension of powers must therefore be by virtue of some other statute. It must also be observed that the present Act does not apply to infectious diseases generally, but only to those comprised in sects. 6 and 7 (*infra*, pp. 95, 96).

Where an inmate of any building (*g*) used for human habitation is suffering from an infectious disease to which this Act

(*g*) "Building" includes ships and certain other things (see sect. 13, *post*, pp. 96, 97).

applies the head of the family of the patient, and in default his nearest relatives present in the building or in attendance, and in default the occupier (*h*) of the building must, as soon as he or they become aware that the patient is suffering from an infectious disease to which this Act applies, give notice to the medical officer of health. Furthermore, every medical practitioner attending on or called in to visit the patient shall forthwith (on becoming aware that the patient is suffering from an infectious disease to which this Act applies) send to the medical officer of health for the district a certificate stating (a) the name of the patient, (b) the situation of the building, and (c) the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering. If a person is not required to give notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the Court that he had reasonable cause to suppose that the notice had been duly given (sect. 3). With reference to the last provision it must be observed (i.) that it has no application to the medical practitioners, each and every of whom must forward a certificate, (ii.) it only applies where, in fact, some person exists who comes in front of the person charged in respect of the duty of giving notice. Each of the four classes mentioned therefore may be the one required to give notice "in the first instance." Whenever there is more than one medical officer of health of a district, see next section. As to how notice or certificate may be sent, see sect. 8 (2) (*post*, p. 96).

The Local Government Board may prescribe the forms of certificates to be given by medical practitioners, and the local authority must supply such forms gratuitously to any medical practitioner residing or practising in the district who applies for the same. The authority must also pay a fee to every medical practitioner for each certificate duly sent in by him. The fee is 2*s*. 6*d*. if the case occurs in his private practice, and 1*s*. if it occurs in his practice as medical officer to any public body or institution. Where there is more than one

(*h*) For what is included in this expression, see sect. 16 (*post*, p. 97).

medical officer of health in the district, the certificate must be given to the one who has charge of the area where the patient is, or to such other of such officers as the authority may from time to time direct (sect. 4). It must be observed that this provision for the case where there is more than one medical officer of health does not apply to the giving of notice by the head of a family, &c. The result of this may possibly be that such notice would in strictness have to be given to every such officer.

For the purposes of this Act "infectious disease" means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhus, typhoid, enteric, relapsing, continued, or puerperal. In respect of any particular district, it includes also any infectious disease which the authority of that particular district has resolved to include in the manner provided in the next section (sect. 6).

The local authority may from time to time order that this Act shall apply to any infectious disease beyond those specifically mentioned above. The order must be made by a resolution passed at a meeting, notice of which and of the resolution must be given to every member of the authority fourteen clear days at least beforehand. Such notice is duly given if it is given (a) in the mode in which notices to attend meetings of such authority are usually given or, where there is no such mode, (b) then signed by the clerk and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England. The order may be permanent or temporary. In the latter event it must specify the period during which it is to be in force. No order (or any revocation or variation of an order) becomes valid until approved by the Local Government Board. After such approval public notice must be given by advertisement in a local newspaper and by handbills and otherwise as the authority may think sufficient for the purpose of giving information to all persons interested. The authority must also

make due inquiry as to the medical practitioners residing or practising in the district, and send each one a copy of the order. The order comes into operation on such date as the local authority may fix, but not earlier than one week after the first advertisement (sect. 7 (1—5)).

The foregoing procedure may be modified in case of emergency, as the section goes on to provide that in such case three clear days' notice of the meeting and resolution shall be sufficient, but the resolution must declare the cause of the emergency and the order must be temporary only. Furthermore, a copy must be sent forthwith to the Local Government Board and advertised. The order comes into operation at the expiration of one week from the date of the advertisement without any approval by the Board. Unless, however, it is approved by the Board it ceases to be in force at the expiration of one month after being passed, or at any earlier date fixed by the Board. If the approval of the Board is given it is conclusive evidence that the case was one of emergency (sect. 7 (6, 7)).

A notice or certificate to be sent to a medical officer of health in pursuance of this Act may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or at his residence (sect. 8 (2)).

A payment to a medical practitioner of his fee for giving a certificate does not disqualify him for membership of a county or borough council, or of a sanitary authority, or as guardian of a union, or for any municipal or parochial office. Where the patient's medical practitioner is also the medical officer of health he is nevertheless entitled to the fee for giving his certificate (sect. 11).

The Act applies to every ship, vessel, boat, tent, van, shed, or similar structure used for human habitation, in like manner as nearly as may be as if it were a building. A ship, vessel, or boat lying in any river, harbour or other water not within the district of a local authority within the meaning of this Act is for the purposes of this Act within the district (a) of such authority as may be fixed by the Local Government Board, or (if the Board does not fix such authority) then (b) of the

authority of the district nearest adjoining the place where such ship, vessel, or boat happens to be lying. This does not apply to any ship, vessel, or boat belonging to a foreign Government (sect. 13).

The Act does not extend to any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to the king, or to any inmate thereof (sect. 15).

The expression "occupier" includes a person having the charge, management, or control of a building, or of the part of a building in which the patient is, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person, and in the case of a ship, vessel, or boat, the master or other person in charge thereof (sect. 16).

The Infectious Disease (Prevention) Act, 1890.—This statute is adoptive by the process set out in sect. 3. It may be adopted as a whole or in respect of any sections. Unlike the Infectious Disease (Notification) Act, 1889, it is not applicable in the first instance to port sanitary authorities, but by the Public Health (Ports) Act, 1896, the Local Government Board may by order assign to any port sanitary authority any of its powers, rights, duties, capacities and obligations with the necessary modification. By sect. 2 the provisions of this Act apply to the infectious diseases specifically mentioned in sect. 6 of the Infectious Disease (Notification) Act, 1889 (*ante*, p. 95), and it may be made applicable to any other infectious disease in the same manner as that Act may be made applicable to any infectious disease other than those specifically mentioned in sect. 6. As to this, see sect. 7 (*ante*, pp. 95, 96). Sect. 2 also provides that the expressions used in the Act are (unless the context otherwise requires) to have the same meaning as in the Act of 1889. Furthermore, it provides that "dairy" shall include any farm, farmhouse, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale. "Dairy-

man" shall include any cowkeeper, purveyor of milk, or occupier of a dairy. "Medical officer of health" shall include any person duly authorised to act temporarily as medical officer of health.

The method of adoption is as follows:—Fourteen clear days at least before such meeting special notice of the meeting, and of the intention to propose such resolution must be given to every member of the local authority, and the notice is to be deemed to have been duly given to a member if it is either (a) given in the mode in which notices to attend meetings of the local authority are usually given; or (b) where there is no such mode, then signed by the clerk of the local authority and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England. Every such resolution must be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested. It comes into operation at such time, not less than one month after the first publication of the advertisement of the resolution, as the local authority fixes. Upon its coming into operation such of the sections of this Act as are mentioned in such resolution extend to the district. A copy of the resolution must be sent to the Local Government Board when it is published. A copy of the advertisement is conclusive evidence of the resolution having been passed, unless the contrary be shown. No objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, can be made after three months from the date of the first advertisement (sect. 3).

Where the medical officer of health possesses evidence that any person in the district is suffering from infectious disease attributable to milk supply within the district from any dairy (whether such dairy is situate within or without the district), or that the milk from the dairy is likely to cause infectious disease to any resident, he may obtain the order of a justice to

inspect the dairy. Furthermore, he may be accompanied by a veterinary inspector or other qualified veterinary surgeon, and he may then inspect the animals. If on such inspection the medical officer considers that infectious disease is caused from the consumption of milk, he must report accordingly to the local authority. His own report must be accompanied by the report, if any, of the veterinary inspector or surgeon. Thereupon the local authority may give not less than twenty-four hours' notice to the dairyman to appear before them to show cause why an order should not be made requiring him not to supply any milk from his dairy until the order has been withdrawn. If the local authority consider that he has failed to show cause against the order, the order may be made. The next step is for the local authority to give notice of the facts to the sanitary authority and county council (if any) of the district or county in which the dairy is situate, and also to the Local Government Board. The order must be withdrawn on the authority, or its medical officer, being satisfied that the milk supply has been changed, or that the cause of the infection has been removed. Refusal to permit to inspect involves penalties. It is also an offence to contravene the order (if made) by supplying milk in the district or selling it for consumption therein. The proceedings, however, must be taken in the Courts having jurisdiction where the dairy is situate. A dairyman who has to commit a breach of contract to supply milk by reason of an order made under this section forbidding him from so doing, is not liable to an action for such breach (sect. 4).

Where the medical officer of health or any other registered medical practitioner certifies that the cleansing and disinfecting of any house or any part thereof and of any articles therein likely to retain infection would tend to prevent or check infectious disease, the clerk to the authority must give notice in writing to the owner or occupier to the following effect, that is to say, that the local authority will cleanse and disinfect the premises and articles at the cost of such owner or occupier unless he informs the local authority within twenty-four hours from receipt of the notice that he will himself do

the cleansing and disinfecting to the satisfaction of the medical officer of health within the time fixed in the notice. If the recipient of the notice does not give such undertaking to do what is necessary himself, or if after having given it he does not carry it out, the local authority may (under the superintendence of the medical officer) do what is necessary and recover the expenses summarily. Where it is considered that the owner or occupier is unable effectually to do the cleansing and disinfecting himself, the local authority may without notice and with the consent of such owner or occupier, do the work itself at its own expense. Where this section has been adopted sect. 120 of the Act of 1875 (*ante*, p. 87) is to be deemed repealed (sect. 5). Apart from certain minor details, the main distinction between the present section and sect. 120 of the Act of 1875 is that the clerk of the local authority may act in the matter without receiving beforehand the directions of the authority given at a meeting. This section is extended by sect. 15 (*post*, p. 102) and sect. 17 (*post*, p. 103).

A local authority may by notice in writing compel the owner of any bedding, clothing, or any other articles which have been exposed to infection to deliver them to an officer of the authority for removal for disinfection. After disinfection the things must be re-delivered to the owner free of charge. If the goods suffer any unnecessary damage the authority must compensate the owner. In case of dispute the compensation is to be settled by a Court of summary jurisdiction. The local authority may give its medical officer of health a general power to act under this section (sect. 6). This last-mentioned provision enables the medical officer to give the notice without the previous direction given at the meeting of the authority.

Where a person has ceased to occupy any house or room in which there has been infectious disease within six weeks previously he must have the premises and all articles therein liable to retain infection disinfected to the certified satisfaction of a registered medical practitioner. In the alternative he must give notice to the owner of the premises of the previous existence of the disease. Furthermore, on being questioned by the

owner or by any person negotiating for the taking of the premises as to the existence of the disease within the six weeks he must answer truthfully (sect. 7). This may be compared with sects. 128 and 129 of the Act of 1875 (*ante*, p. 90), as to which it will be observed that they apply only to the case of *dangerous* infectious disorder. As to the duty of the local authority in respect of this section, see sect. 14 (*post*, p. 102).

No person without the sanction in writing of the medical officer of health or of a registered medical practitioner, may retain unburied elsewhere than in a public mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours, the body of any person who has died of any infectious disease (sect. 8). This extends sect. 142 of the Act of 1875 (*ante*, p. 92).

Where a person dies from an infectious disease in a hospital or other place of temporary accommodation for the sick, the medical officer of health or other registered medical practitioner may certify that it is undesirable (so as to prevent risk of further infection) to remove the body from such hospital or place excepting for immediate burial. It then becomes unlawful for any person to remove the body except for being forthwith buried. This does not prevent the removal of the body to a mortuary (sect. 9). This extends sect. 142 of the Act of 1875 (*ante*, p. 92).

Where the body of a person who has died from infectious disease remains unburied elsewhere than in a mortuary or room not used as a dwelling-place, sleeping-place, or work-room, for more than forty-eight hours after death, without the sanction of the medical officer of health or of a registered medical practitioner, a justice may, on the application of the medical officer of health, order the body to be removed to a mortuary, and direct it to be buried within a limited time. The same is to apply where the dead body of any person is retained in any premises so as to endanger the health of the inmates or of the adjoining premises. Unless the friends or relatives of the deceased undertake to bury, and do in fact bury the body within the time limited by the order, the relieving officer must carry out the burial, and the expense may be recovered summarily from any person legally liable to pay the expenses of burial.

Where the body is that of a person who has died of an infectious disease, the justice may, if he considers it necessary, direct immediate burial (sect. 10). This extends sect. 142 of the Act of 1875 (*ante*, p. 92). It will be observed that the second of the foregoing provisions applies whether the body is that of a person who died of infectious disease or not.

A person who hires or uses a public conveyance other than a hearse for the conveyance of a body of a person who has died from infectious disease must notify the owner or driver of the fact. Furthermore, where the owner or driver has been so notified, he must immediately afterwards have the conveyance disinfected (sect. 11).

Where it appears that a hospital patient suffering from an infectious disease would not on leaving be provided with lodging or accommodation in which proper precautions could be taken to prevent his communicating the disease, a justice may make an order for his continued detention in hospital at the cost of the local authority. Any officer of the local authority, or of the hospital, or the inspector of police, may take all necessary measures for giving effect to the order (sect. 12).

No person may knowingly cast or cause, or permit to be cast, into any ashpit, ashtub, or other receptacle for the deposit of refuse any infectious rubbish without previous disinfection (sect. 13). As to the duty of the local authority in respect of this section, see sect. 14, *infra*.

Where sects. 7 (*ante*, p. 100) and 13 (*supra*) of this Act, or either of them, are in force in any district, the local authority must give notice of the provisions thereof to the occupier of any house in which they are aware that there is a person suffering from an infectious disease (sect. 14). It seems clear that the persons upon whom the liability, under sects. 7 and 13, is thrown could not plead as an excuse that they had received no notice from the local authority under sect. 14. (Cp. Lumley's Public Health, 7th edit., Vol. I., p. 842.)

The local authority must, from time to time, provide, free of charge, temporary shelter or house accommodation with any necessary attendants for the members of any family in which any infectious disease has appeared, who have been compelled to leave their dwellings for the purpose of enabling such dwell-

ings to be disinfected by the local authority (sect. 15). This extends sect. 5 (*ante*, p. 99).

Persons wilfully obstructing any duly authorised officer of the local authority in carrying out the provisions of this Act, or obstructing the carrying out of an order made by a justice under this Act, or otherwise offending against this Act, are liable to penalties (sect. 16).

The local authority may, by any officer appointed in that behalf who produces his authority in writing, enter on any premises between the hours of 10 a.m. and 6 p.m. for the purpose of carrying into effect the provisions of sect. 5 of this Act (sect. 17). For sect. 5, see *ante*, p. 99.

Public Health Act, 1896.—This statute extends sects. 130 (*ante*, p. 90) and 134 (*ante*, p. 91) of the Act of 1875, which empower the Local Government Board to make certain regulations in relation to epidemic, endemic and infectious diseases on land or in ships. The present Act provides that such regulations may provide for their enforcement and execution by the officers of customs and the officers and men employed in the coastguard, as well as by other authorities and officers. It further provides that such regulations may provide for (a) the signals to be hoisted by vessels having any case of epidemic, endemic, or infectious disease on board; (b) the questions to be answered by masters, pilots, and other persons on board any vessel as to cases of such disease on board during the voyage, or on the arrival of the vessel; (c) the detention of vessels and of persons on board vessels; and (d) the duties to be performed in cases of such disease by masters, pilots, and other persons on board vessels (sect. 1 (1)). Such regulations, however, shall be subject to the following consent, viz.:—(a) so far as they apply to the officers of customs, of the commissioners of customs; (b) so far as they apply to officers or men employed in the coastguard, of the Admiralty; and (c) so far as they apply to signals, of the Board of Trade (sect. 1 (2)). Infringements of regulations made under 130 or 134 of the Act of 1875 (*ante*, pp. 90, 91), or thereunder as extended by the present Act, are heavily penalised (sect. 1 (3)). The power of making regulations contained in this Act is extended by the Public Health Act, 1904 (*post*, p. 104), and by the

Public Health (Regulations as to Food) Act, 1907 (*ante*, p. 83).

Public Health (Ports) Act, 1896.—The effect of this statute is set out above (*ante*, p. 97).

Infectious Disease (Notification) Extension Act, 1899.—The effect of this Act is set out above (*ante*, p. 93).

Public Health Act, 1904.—This Act extends the power of making regulations contained in sects. 130 (*ante*, p. 90) and 134 (*ante*, p. 91) of the Public Health Act, 1875, and in sect. 41 of the Public Health Act, 1896 (*ante*, p. 103). It provides that such power shall include the power of making regulations authorising measures to be taken for the prevention of the conveyance of infection by means of any vessel sailing from any port, so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any foreign country. Further, the regulations may in particular provide for the recovery of any expenses incurred in disinfection and of any charges authorised to be made by the regulations for the purpose of those regulations or any services performed thereunder, and also for any powers and duties under the regulations being executed and performed by local authorities. The regulations shall not be made except after consultation with the Board of Trade.

Public Health Acts Amendment Act, 1907.—As to the applicability of this Act and the procedure by which its application is obtained, see *ante*, p. 44. The provisions relating to infectious diseases are contained in Part IV. Certain expressions, however, are defined in Part I., viz., the expression "dairy" includes any farm, farmhouse, cowshed, milk store, milk shop, or other place from which milk is supplied or in which milk is kept for the purposes of sale *within* (*unless otherwise expressed*) *the district of the local authority*; the expression "dairyman" includes any cowkeeper, purveyor of milk, or occupier of a dairy within (*unless otherwise ex-*

pressed) *the district of the local authority*. It is only the addition of the words in italics that differentiates these two definitions from those contained in the Infectious Disease (Prevention) Act, 1890 (*ante*, pp. 97, 98). The expression "infectious disease" means any infectious disease to which the Infectious Disease (Notification) Act, 1889, for the time being applies within the district of the local authority. The diseases to which the Act of 1889 applies are those specified in sect. 6 thereof (*ante*, p. 95), and those added by virtue of sect. 7 (*ante*, pp. 95, 96).

A person knowing that he is suffering from an infectious disease must not, under penalties, engage in any occupation or carry on any trade or business unless he can do so without risk of spreading the disease (sect. 52).

Where the medical officer certifies that a person is suffering from infectious disease which the officer has reason to suspect is attributable to milk supplied within the district, the local authority may require the dairyman supplying the milk to furnish the officer with a list of the farms, dairies, or places from which he is deriving his supply, or has derived it during the previous six weeks. If any part of the supply is derived through any other dairyman the latter may also be required to furnish such a list. The authority must pay the dairyman sixpence for the list, but if it contains not less than twenty-five names, then a further sixpence for each twenty-five names (sect. 53).

Every dairyman supplying milk from premises either within or beyond the district must notify the medical officer of all cases of infectious disease among persons engaged in or in connection with his dairy as soon as he becomes aware or has reason to suspect the existence of such disease (sect. 54).

A person must not send to any laundry or public washhouse any bedding, clothes, or other things which have been exposed to infection unless they have been disinfected by or to the satisfaction of the local authority or other medical officer, or a legally qualified medical practitioner. If, however, they are sent to a laundry (as distinct from a public washhouse) the foregoing will not apply if they are sent with proper pre-

cautions for the purpose of disinfection, and with notice to the laundry that they have been exposed to infection. Where the local authority carry out or superintend such disinfection they may pay the expenses thereof (sect. 55).

Where the medical officer certifies that the cleansing, purification or destruction of any article in a dwelling-house is, by reason of its filthy condition, necessary to prevent injury, or to remove or obviate risk of injury to the health of any person in the house, the local authority may cause the article to be cleansed, purified or destroyed. The expense is borne by the authority, and it must also compensate the owner of the article where its filthy condition is not attributable to his own act or default (sect. 56). It will be observed that this section is not confined to things which have been exposed to infection.

The parent or other person having the care or charge of a child which is or has been suffering from infectious disease or exposed to infection, and who has received notice from the medical officer that the child is not to be sent to school, shall not permit the child to attend school until the medical officer has certified that the child may attend without undue risk of communicating the disease to others. The certificate must be granted free of charge (sect. 57).

Where a scholar is suffering from an infectious disease, the principal of the school can be required by the local authority to furnish them with a complete list of the names and addresses of the whole of the scholars or those attending in specified departments, except boarders. The authority must pay sixpence for the list, and if it contains not less than twenty-five names, then a further sixpence for every twenty-five names. "Principal" means the person in charge of the school, or if there is no person in charge of the whole school, then the person at the head of any department (sect. 58).

A person suffering from infectious disease must not take any book or use or cause any book to be taken for his use from any public or circulating library. A person who has possession of any book from such a library must not permit it to be used by anyone suffering from an infectious disease. A person must not return to such a library any book which he knows to have

been exposed to infection, but must give notice of the fact to the local authority, and the local authority must either cause the book to be disinfected and returned to the library, or destroyed. In the latter event the authority must compensate the proprietor of the library (sect. 59).

The local authority may exercise the powers of sect. 15 of the Infectious Disease (Prevention) Act, 1890 (*ante*, pp. 102, 103), whether or not that section has been adopted in the district. Such powers may furthermore be exercised for providing temporary shelter or house accommodation (with any necessary attendants) for any person leaving the house after any infectious disease has appeared therein. Furthermore, the authority may borrow (subject to the provisions of the Public Health Acts (*i*)) for the purpose of providing such shelter or house accommodation. Where the local authority have provided such temporary shelter or house accommodation they may cause the removal thereto of any person who is not himself sick but who consents to leave the house, or (where the person is a child) whose parent or guardian consents to his leaving, on the appearance of infectious disease in such house, and on the certificate of the medical officer. Where such consent is not given, the removal may be compulsory on the order of two justices, subject to such conditions as may be imposed by the latter. The removal must be without charge to the person removed, or to the parent or guardian (sect. 61). The shelter or accommodation which can be provided under sect. 15 of the Act of 1890 is confined to members of the family, and only where the removal is to enable the dwelling to be disinfected. Furthermore, that section only applies to dwelling-houses, and contains no powers of removal.

Paragraph two of sect. 126 of the Public Health Act, 1875 (*ante*, p. 89), is to read as if the words "or causes or permits such sufferer to be so exposed" were added after the word "sufferer" (sect. 62). The paragraph in question related to persons in charge of any person suffering from a dangerous infectious disorder exposing the sufferer in streets, &c. Where

(*i*) See *post*, p. 152.

the present section is adopted it will also be an offence to cause or permit exposure.

The owner or driver of a public vehicle used for the carrying of passengers at separate fares must not convey a person suffering from infectious disease, nor must anyone place a person so suffering in such a vehicle, nor must a person so suffering enter such a vehicle (sect. 63).

If a person suffering from infectious disease is conveyed in a public vehicle the owner or driver must give notice to the medical officer and must cause the vehicle to be disinfected. The owner or driver may recover from the person who caused him to be conveyed the amount of any loss or expense incurred in connection with such disinfection. The local authority must provide for the disinfection of the vehicle free of charge when so requested by the owner or driver, except where such owner or driver knew that he was conveying a person suffering from infectious disease (sect. 64).

Sect. 124 of the Public Health Act, 1875 (*ante*, p. 88), applies to all persons suffering from any dangerous infectious disease who are in any house or premises where they cannot be effectually isolated (sect. 65). The section of the Act of 1875 referred to is confined to persons without proper lodging or accommodation, or lodged in a room occupied by more than one family, &c.

If the medical officer or any other legally qualified medical practitioner certifies that the cleansing and disinfecting of any house (or part of a house) and of any articles therein likely to retain infection, or the destruction of those articles, would tend to prevent or check any dangerous infectious disease, the local authority must serve a notice on the master (*j*) of the premises or, where the same are unoccupied, on the owner. The notice

(*j*) The section provides that the expression "master" means the person in occupation of or having the charge, management, or control of the house or part of a house, and where the house is wholly let out in separate tenements, or is a lodging-house wholly let to lodgers, includes the person receiving the rent payable by the tenants or lodgers, either on his own account or as the agent of another person.

must be to the effect that the premises and any articles therein as aforesaid will be cleansed and disinfected or (as regards the articles) destroyed by the local authority unless the recipient of the notice informs the authority within twenty-four hours that he will himself cleanse and disinfect the premises and articles, or destroy the articles, to the satisfaction of the medical officer or other legally qualified medical practitioner within a time fixed in the notice. If the recipient of the notice makes default (a) in informing the authority, or (b) having so informed the local authority, in the disinfection or destruction, the authority shall do such cleansing and disinfection or destruction at their own cost. Apart from default, the authority may themselves do the cleansing and disinfection or destruction with the consent of the master (*k*) or owner, as the case may be. For the purpose of giving effect to the foregoing provisions the authority may enter by day (*l*) on any premises, and the local authority must compensate the master (*k*) or owner, as the case may be, for any unnecessary damage caused by carrying out the foregoing provisions, and such compensation may be recovered summarily (sect. 66).

The local authority may provide nurses for attendance on patients suffering from any infectious disease in their district who, owing to want of accommodation at the hospital or danger of infection, cannot be removed to the hospital, or in cases where removal to the hospital is likely to endanger the patients' health. The authority may charge such reasonable sums for the services of the nurses as they think fit. The foregoing does not diminish the necessity of providing proper hospital accommodation for persons suffering from infectious disease (sect. 67).

It is unlawful to hold a wake (*m*) over the body of a person

(*k*) For meaning, see *ante*, p. 108.

(*l*) The section provides that the expression "by day" means during the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

(*m*) "The sitting up of persons with a dead body, often with a degree of festivity, chiefly among the Irish" (Webster's International Dictionary).

who has died of infectious disease, or for the occupier of premises to permit or suffer such a wake (sect. 68).

The Canal Boats Acts, 1877 and 1884.—The application of provisions against infection contained in the Public Health Act, 1875, to canal boats has been referred to in connection with the sections of that statute containing such provisions (*ante*, p. 87 *et seq.*). It may also be mentioned that sect. 2 of the Act of 1877 empowers the Local Government Board to make regulations for preventing the spread of infectious disease by canal boats. The Acts are dealt with more fully *post*, pp. 173, 174.

Isolation Hospitals Acts, 1893 and 1901.—These statutes enable county councils and local sanitary authorities to provide hospitals for the reception of patients suffering from infectious diseases. They are dealt with in the next chapter.

Vaccination Acts, 1867–1898 and 1907.—These statutes are designed (by means of inoculation) to prevent the spread of small-pox. They differ from most of the statutes dealt with in this work, inasmuch as they are administered not by the sanitary authorities, but by the Boards of Guardians, and this although they apply to rich and poor alike. It may be stated shortly that they provide for the compulsory vaccination of every child within six months of its birth, and for this purpose a public vaccinator is appointed in each district who will, if the parent so desires, vaccinate the child free of charge with lymph issued by the Local Government Board, and such vaccinator must visit the home of the child and must offer to do so if the child has not been vaccinated within four months of its birth. The public vaccinator must not vaccinate a child when through the condition of the house or recent prevalence of infectious disease in the district, he considers that it cannot be safely vaccinated, but must in such case postpone the vaccination. The parent or other person responsible for the vaccination is liable to penalties for neglect thereof unless within four months from the birth of the child he makes a statutory declaration that he

conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereof delivers the declaration or sends it by post to the vaccination officer of the district. The Local Government Board may make special orders in relation to vaccination where it considers it expedient to do so by reason of serious risk of outbreak of small-pox or of other exceptional circumstances.

As to contagious diseases of animals, see "Diseases of Animals," and "Dairies, Cowsheds, and Milkshops," *post*, Ch. XXI., pp. 175 and 176.

Regulations made under various statutes dealt with in this chapter will be found in Lumley's Public Health, Vol. II., under "Cholera, Yellow Fever, and Plague," and "Diseases and Hospitals."

CHAPTER XIII.

HOSPITALS, ETC.

The provisions relating to the subject of this chapter are contained in sects. 131—133 of the Public Health Act, 1875, the Public Health (Ships, &c.) Act, 1885. To these may be added sects. 50 and 60 of the Public Health Acts Amendment Act, 1907, and the Isolation Hospitals Acts, 1893 and 1901.

Public Health Act, 1875.—Local authorities may provide hospitals or temporary places for the reception of the sick, and for that purpose may (1) themselves build such hospitals or places of reception, or (2) contract for the use of any such hospital or part of a hospital or place of reception, or (3) enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on. Two or more local authorities may combine in providing a common hospital (sect. 131). This section is extended by the Public Health (Ships, &c.) Act, 1885 (*post*, p. 113). The authority are not bound to erect the hospital within their own district (*Withington Local Board of Health* v. *Manchester Corporation*, [1893] 2 Ch. 19; 57 J.P. 340; 62 L. J. Ch. 393; 68 L. T. 330; 41 W. R. 306; 2 R. 367). The section being merely permissive, the hospital cannot be erected in such a spot as to be a nuisance (*Metropolitan Asylums Board* v. *Hill* (1881), 6 App. Cas. 193; 45 J.P. 664; 50 L.J.Q.B. 353; 44 L.T. 653; 27 W.R. 617—decided on the Metropolitan Poor Act, 1867).

The local authority may recover any expense incurred by them in maintaining in a hospital or temporary place for the reception of the sick any patient who is not a pauper. This

applies whether the hospital or place belongs to the authority or not. The action can only be brought against him within six months after the discharge of the patient from such hospital or place, or against his estate in the event of his dying therein (sect. 132). This section is extended by the Public Health (Ships, &c.) Act, 1885 (*infra*). The expense is not recoverable summarily, as is usually the case with expenses incurred by authorities under this Act, but is an ordinary debt.

Local authorities may, with the sanction of the Local Government Board, provide or contract for the provision of a temporary supply of medicine and medical assistance for the poorer inhabitants of their district (sect. 133). This section is extended by the Public Health (Ships, &c.) Act, 1885 (*infra*).

Public Health (Ships, &c.) Act, 1885.—The purport of this statute, so far as it bears upon the subject of the present chapter, is as follows: Sect. 110 of the Act of 1875 provides that the provisions of that Act relating to nuisances shall apply to any ship or vessel lying in any river, harbour or other water within the district of a local authority as though it were a house, &c. (see more fully, *ante*, p. 76). The present Act provides that such sect. 110 shall have effect not only for the purpose of the provisions of the Act of 1875 relating to nuisances, but also for the purpose of certain of the provisions of the Act of 1875 relating to hospitals, namely, sect. 131 (*ante*, p. 112), sect. 132 (*ante*, p. 112), and sect. 133 (*supra*).

Public Health Acts Amendment Act, 1907.—As to when and how this Act becomes applicable, see *ante*, p. 44. Sect. 50 is from Part III., and sect. 60 is from Part IV.

The local authority may provide and maintain an ambulance for use in any case of accident, or other sudden or urgent disability, together with suitable attendants, and means of traction and other requisites; and may allow the ambulance to be used by any local authority or person subject to such terms and conditions as may be agreed upon (sect. 50). Sect. 123 of the

Act of 1875 (*ante*, p. 88) allowed the authority to provide conveyances, but only for persons suffering from infectious disorder.

Nothing in sect. 132 of the Public Health Act, 1875 (*ante*, p. 112), with respect to the recovery of the cost of maintenance in a hospital, is to require the local authority to recover the cost of maintenance from a patient who is not a pauper where the local authority have satisfied themselves that the circumstances of the case are such as to justify the remission of the debt (sect. 60). Where this section is made applicable any doubt as to the permissive character of the section of the Act of 1875 referred to is removed.

Isolation Hospitals Acts, 1893 and 1901.—The object of these statutes is to promote the establishment of hospitals for the reception of patients suffering from infectious diseases. The Act of 1893 provides as follows:—

Urban and rural sanitary authorities and also parish councils may apply by petition to the county council to provide in the district from which the application comes an isolation hospital, and stating reasons. An application may also be made by not less than twenty-five ratepayers in a contributory place (*n*). Upon the application being made the county council must, if satisfied that a *primâ facie* case has been made out, hold an inquiry as to the necessity of the establishment of the hospital. If the result of the inquiry is favourable to the establishment of the hospital, the council may provide same. Apart from any application, the county council may direct an inquiry to be made by the medical officer of health of the county as to the necessity of an isolation hospital being established for the use of the inhabitants of any particular district in the county, and in the event of such medical officer reporting that such a hospital ought to be established, may take the same proceedings in all respects for the establishment of such hospital as if a petition had been presented by a local authority for the establishment thereof. Beyond the foregoing, the Act pro-

(*n*) For meaning, see *ante*, p. 49.

vides, *inter alia*, for the establishment of hospital committees in certain cases, for the purchase of land, for the management of such hospitals, for the provision of ambulances in connection therewith, for the provision of additional hospital accommodation where there is an outbreak of infectious disease or the expectation of it, for the training of nurses, and for the charging of the expenses of the hospital upon the area served (with power, however, to the county council to contribute). The diseases for which any such hospital may be established are those comprised in the Infectious Disease (Notification) Act, 1889 (*ante*, p. 95), and any other infectious disease may be included by order of the county council in the same manner as such disease might be included by a local authority in accordance with the said Act (see *ante*, pp. 95, 96).

The Act of 1901 provides that a local authority which has provided a hospital under the Public Health Act, 1875 (*ante*, pp. 112, 113), or any local Act may, with the consent of the Local Government Board and of the county council, transfer the same to the county council for use as an isolation hospital.

Sanatoria.

Provision for these is made by the National Insurance Act, 1911 (*post*, Ch. XX., p. 172).

CHAPTER XIV.

MORTUARIES AND CEMETERIES.

Mortuaries, &c.

Public Health Act, 1875.—The provisions of the Act of 1875 which come under this heading are sects. 141—143. It is provided by sect. 141 that any local authority may (and if required by the Local Government Board must) provide a proper mortuary, *i.e.*, a place for the reception of dead bodies before interment. The authority may also make byelaws with respect to the management, and charges for the use of the same. Further provision may be made for the decent and economical interment, at charges fixed by the byelaws, of any dead body which may be received into a mortuary. Sect. 142 enables a justice in certain cases to order the removal of a dead body to a mortuary, and is dealt with *ante*, p. 92. Sect. 143 provides that a local authority may provide and maintain a proper place (otherwise than at a workhouse or at a mortuary) for the reception of dead bodies during the time required to conduct any *post mortem* examination ordered by a coroner or other constituted authority, and may make regulations with respect to the management of such place. This last provision is supplemented by sect. 24 of the Coroners Act, 1887, which provides that where a place has been provided by a sanitary authority or nuisance authority for the reception of dead bodies during the time required to conduct a *post mortem* examination, the coroner may order the removal of a dead body to and from such place for carrying out such examination, and the cost of such removal is to be deemed to be part of the expenses incurred in and about the holding of

an inquest. It may be added that mortuaries may also be provided by Burial Boards under the provisions of the Burial Acts, 1852—1906.

Cemeteries.

Public Health (Interments) Act, 1879.—This statute provides that the provisions of the Public Health Act, 1875, as to mortuaries, shall extend to cemeteries. The effect is as follows: Any local authority may (and if required by the Local Government Board must) provide a proper cemetery, *i.e.*, a place for the interment of the dead. This includes its acquisition, construction and maintenance. Such authority may make byelaws with respect to the management and charges for the use of the same, and may provide for decent and economical interment at charges fixed by such byelaws. Furthermore, a local authority may acquire, construct and maintain a cemetery wholly or partly outside of the district, subject, however, in such case to the provisions of the Act of 1875 relating to the construction of sewage works outside a district. Such provisions relate to the giving of notice before commencing the work, the obtaining of the sanction of the Local Government Board in case of objection to such work, and the holding of an inquiry by the Board into the propriety of the work, and are contained in sects. 32—34, for which see *ante*, p. 34. A local authority may also accept a donation of land for the purpose of a cemetery, and a donation of money and other property enabling the acquisition, construction or maintenance of a cemetery. Finally, it is provided that with the present Act there shall be deemed incorporated the Cemeteries Clauses Act, 1847. This is a code of provisions made originally for the purpose of incorporation by reference in any private or local Act promoted to provide cemeteries. Its operation, however, in relation to the Public Health (Interments) Act, 1879, is modified in several particulars by the Burial Acts, 1900 and 1906 (*o*).

(*o*) The former of these two Acts provides (sect. 11) that the expression "burial authority" shall include, *inter alia*, a local authority maintaining a cemetery under the Public Health (Interments) Act, 1879 (*post*, p. 119).

Burial Acts, 1852—1906.—Apart from cemeteries provided by virtue of the Public Health (Interments) Act, 1879, cemeteries are provided and maintained under the powers of the Burial Acts, 1852—1906. The Acts of 1852—1885 are adoptive. The authorities created by the earlier of these Acts were burial boards of three to nine members, elected by the parish vestry adopting the Acts. The effect, however, of the Local Government Act, 1894, upon the existing burial boards has been, in rural parishes, to transfer such power of election from the vestry to the parish meeting. Moreover, in districts where the area of any board lies wholly within a single parish, either the burial board itself or the parish meeting may transfer the functions of the board to the parish council; while if the area does not lie wholly within a single parish the functions of the board are transferred (not merely transferable) to a joint committee composed of representatives of the parish councils of the rural parishes into which the burial area extends, and also of the council of any urban district into which such burial area extends. A burial board in an urban district still continues to be appointed by the vestry, unless the council of the district has exercised the power given by the Local Government Act, 1894, to transfer to itself the functions of the board. Furthermore, any fresh adoption of the Acts must be by the parish council in rural districts. The result is that the powers given by the Burial Acts, 1852—1885, are, where they have been adopted, now exercised partly by burial boards (elected in urban parishes by the vestry, and in rural parishes by the parish meeting), partly by the urban sanitary authorities and partly by joint committees. It will be observed that rural sanitary authorities have no power to adopt the said Acts, nor can the powers of existing burial boards be transferred to rural sanitary authorities, and these are therefore confined to the powers given by the Public Health (Interments) Act, 1879 (*ante*, p. 117). Urban sanitary authorities, on the other hand, while they cannot adopt the Burial Acts, 1852—1885, can transfer to themselves the powers of any burial boards within their district, and they have also the powers conferred by the Public Health (Interments) Act, 1879 (*ante*, p. 117). In such case,

their powers under the Burial Acts, 1852—1885, and the Public Health (Interments) Act, 1879, are cumulative. Finally, it may be noted that for the purposes of the Burial Acts, 1900 and 1906, the expression "burial authority" means "any burial board, any council, committee, or other local authority having the powers and duties of a burial board, and any local authority maintaining a cemetery under the Public Health (Interments) Act, 1879, or under any local Act" (sect. 11 of the Act of 1900).

Pauper Cemeteries.—By the joint effect of the Burial Act, 1857, s. 6, and the Local Government Board Act, 1871, guardians may, with the consent of the Local Government Board, appropriate land belonging to them as a cemetery for paupers.

Crematoria.

Cremation Act, 1902.—The object of this Act is to provide for the regulation of the burning of human remains, and to enable burial authorities to establish crematoria. The expression "burial authority" is defined in the same terms as in the Burial Act, 1900 (*supra*).

By "crematorium" is meant any building fitted with appliances for the purpose of burning human remains, and shall include everything incidental or ancillary thereto (sect. 2). The Act provides that the powers of a burial authority to provide and maintain burial grounds or cemeteries, or anything essential, ancillary, or incidental thereto, shall be deemed to extend to and include the provision and maintenance of crematoria. The crematorium, however, must not be used until the plans and site have been approved by the Local Government Board, and until it has been certified by the burial authority to the Secretary of State (*p*) to have been completed duly in accordance with such plans, and properly equipped for the disposal of human remains by burning. The Act further

(*p*) In the present case this would mean the Home Secretary.

contains provisions relating to the site of crematoria empowering burial authorities to accept donations of land, money, &c. for the purpose of crematoria, empowering the Secretary of State to make regulations imposing penalties for the breach, and authorising the burial authority to make charges. Nothing in the Act is to authorise the burial authority or any person to create or permit a nuisance. To burn a dead body instead of burying it is not of itself a misdemeanour, although it may amount to one if it be done in such manner as to constitute a public nuisance. It is, however, a misdemeanour to dispose of the body that way so as to prevent the coroner from holding the inquest (*R.* v. *Price* (1884), 12 Q. B. D. 247; 53 L. J. M. C. 51; 33 W. R. 45, n.; 15 Cox, C. C. 389). A public nuisance may also be actionable under certain circumstances (see *ante*, Ch. IX.). An incumbent is not bound to perform the burial service on cremated remains. Sect. 7 empowers the Secretary of State to make regulations for the administration of the Act (*q*).

(*q*) Regulations made by the Home Secretary will be found in Lumley's Public Health, Vol. II.

CHAPTER XV.

STREETS AND BUILDINGS.

THE salient provisions relating to the subject of this chapter are contained in sects. 144—155 and 157—163 of the Public Health Act, 1875 (Highways, Regulation of Streets and Buildings, Lighting, &c.), the Public Health (Buildings in Streets) Act, 1888, sects. 23 and 33—43 of Part III. of the Public Health Acts Amendment Act, 1890, the Private Streets Works Act, 1892, and sects. 15—33 (*i.e.*, Part II.) of the Public Health Acts Amendment Act, 1907.

Public Health Act, 1875.—An *urban* sanitary authority has vested in it the office and functions of surveyor of highways within its district, and possesses also the powers and duties vested in the inhabitants of any parish in vestry assembled by the Highway Act, 1835, or any amending Act (sect. 144).

Inhabitants of *urban* sanitary districts are not liable to pay rates in respect of making or repairing roads or highways outside the district (sect. 145).

An *urban* sanitary authority may agree with any person for the making of new roads through the land of such person and at his expense, and may agree further that such roads shall on application become vested in and repairable by the inhabitants at large. By a majority of two-thirds the authority may agree to pay any portion of expenses of making such roads (sect. 146).

Urban sanitary authorities may agree with the proprietors of any canal, railway, or tramway to adopt and maintain any existing or projected bridge, viaduct, or arch over or under such canal, railway, or tramway and the approaches thereto; or they may themselves agree to construct such bridge, viaduct,

or arch at the expense of such proprietors. By a two-thirds majority they may agree to pay any portion of the expenses of construction or alteration (sect. 147).

An *urban* sanitary authority may agree with any person liable, to repair any street or road or any part thereof, or with the surveyor of any county bridge, to take on itself the maintenance, repairing, cleansing, or watering, of any such street or road or part thereof, or of any road over a county bridge or the approaches thereto (sect. 148).

All streets which are or at any time become highways within an *urban* sanitary district, and the pavements, stones, and other materials thereof, and all buildings, implements, and other things provided for the purposes thereof are vested in and under the control of the authority of such district. The authority must from time to time cause all such streets to be paved, metalled, flagged, channelled, altered, and repaired, as the case may require; and they may raise, lower, or alter the soil, and repair fences and posts for the safety of foot passengers. Persons displacing or injuring pavements, stones, materials, fences, posts or trees in any such street are liable to penalties; and in the case of injury to trees, to pay compensation to the authority (sect. 149).

Where any street in an *urban* sanitary district not repairable by the inhabitants at large, is not properly maintained or lighted to the satisfaction of the local authority, the authority may address a notice to the respective owners or occupiers of the premises fronting, adjoining or abutting such parts as may require to be maintained or lighted, requiring them to do what is necessary within a specified time. Before giving the notice the authority must prepare plans of the work and an estimate of the probable cost thereof, and such plan and estimate must be open to inspection at the office of the authority. If the notice is not complied with, the authority may execute the work and recover the expense summarily and apportionately from the owners in default (sect. 150).

The incumbent or minister of any church, chapel, or place of worship, exempt from the poor rate, shall not be liable to pay the aforesaid expenses for maintenance and lighting, but

the authority may do the work itself at its own expense (sect. 151).

Where a street in any *urban* sanitary district, not being a highway repairable by the inhabitants at large, has been made up and provided with proper means of lighting to the satisfaction of the authority, the authority may, by notice in writing put up in any part of the street, declare it to be a highway; and thereupon it shall become a highway repairable by the inhabitants at large unless within a month the majority of proprietors in the street object (sect. 152).

Where an *urban* sanitary authority deem it necessary for any purpose under this Act they may require the owner of any pipes, mains, plugs or works to raise, sink, or alter the situation of same. The authority must bear the expense. If the owner will not do the work the authority may do it. Nothing of the foregoing shall be applied so as to permanently injure any such pipe, main, plug, or works, or prevent water or gas from flowing as freely and conveniently as usual. Where any local Act throws the expense on the owner this section is not to relieve him (sect. 153).

An *urban* sanitary authority may purchase any premises for the purpose of improving any street or (with the sanction of the Local Government Board) for the purpose of making a new street (sect. 154).

Where any building site in any street in an *urban* sanitary district, or the front thereof, has been taken down for the purpose of rebuilding or alteration, the authority may prescribe a new building line. In case of damage to the owner in consequence of the premises being set back or forward, the authority must pay compensation. In case of dispute it is to be settled by arbitration (*r*) (sect. 155). This section does not apply to railway premises (see next section).

An urban sanitary authority may make byelaws with respect to the following matters, viz.: (1) the level, width, and construction of new streets, and the provisions for the sewerage

(*r*) For arbitration provisions see sects. 179—181 (*ante*, p. 20).

thereof; (2) the structure of walls, foundations, roofs and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health; (3) the sufficiency of the space about buildings to secure a free circulation of air, and the ventilation of buildings; (4) the drainage of buildings, water-closets, earth-closets, privies, ashpits, and cesspools in connection with buildings, the closing of buildings or parts of buildings unfit for human habitation, and the prohibition of their use for such habitation (sect. 157). Neither this nor sect. 155 (*ante*, p. 123) is to apply to railway premises.

Where the byelaws of an *urban* sanitary authority require a notice, plan, or description of any proposed work to be laid before them, the authority must signify their approval or disapproval within one month after delivery, and if the work is commenced before notice of approval or after notice of disapproval, or (in the event of neither approval nor disapproval) before the expiration of the month aforesaid, and such work is not in conformity with the byelaws of the authority, they may cause so much of the work as has been executed to be pulled down or removed. The expenses thus incurred may be recovered summarily from either the person executing or the person causing the work to be executed (sect. 158). It will be observed that there is nothing which forbids anyone to proceed with the work so long as he is sure that it is in accordance with the byelaws, but he does so at his own risk in that respect.

The expression "new building" for the purposes of this Act includes the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only (sect. 159).

In *urban* districts the provisions of the Towns Improvements Clauses Act, 1847, shall apply with respect to the following matters:—(a) naming the streets and numbering the houses, (b) improving the line of the streets and removing ob-

structions, (c) ruinous or dangerous buildings, (d) precautions during the construction and repair of the sewers, streets, and houses. Furthermore, in connection with these matters notices and orders may be served on owners instead of, or as well as, occupiers, and the cost of works may be recovered from the former instead of the latter (sect. 160).

An *urban* authority may contract with any person for the supply of gas or other means of lighting streets, markets and public buildings; and provide lamps, posts, materials and apparatus. Where there is no person or company authorised by statute supplying gas for public and private purposes, the authority may undertake the supply themselves, whether for public or private purposes. If there is such a person or company, but their limits of supply include part only of the district, the authority may themselves undertake the supply in the other part. Where the authority themselves undertake the supply they may obtain a Provisional Order for that purpose under the provisions of the Gas and Water Works Facilities Act, 1870. Such order, however, is to be obtained from the Local Government Board (sect. 161). Under the Act in question the order is obtainable from the Board of Trade.

For the purpose of supplying gas as aforesaid the authority may, with the sanction of the Local Government Board, buy, and the directors may sell, the undertaking of any gas company, subject to special resolution of the members of the company (sect. 162).

In *urban* sanitary districts the foregoing provisions supersede the Lighting and Watching Act, 1833 (sect. 163). This is an adoptive Act, the power of adopting which is now vested, in *rural* sanitary districts, in the parish meeting, by virtue of the Local Government Act, 1894.

Public Health (Buildings in Streets) Act, 1888.—The object of this Act is to supply defects in sect. 156 of the Public Health Act, 1875, which it repeals. In place of that section it enacts that it shall not be lawful in any *urban* district, without the written consent of the authority, to erect or bring

forward any building in any street beyond the front main wall of the building on either side thereof in the same street; nor to add to any building beyond the front main wall of the building on either side of the same.

Public Health Acts Amendment Act, 1890.—This Act is adoptive. As to method of adoption, see *ante*, p. 40.

Sect. 157 of the Public Health Act, 1875 (*ante*, p. 123), is extended to enable an *urban* sanitary authority to make bye-laws with respect to the following matters, viz.: (a) the keeping water-closets supplied with sufficient water for flushing, (b) the structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation, (c) the paving of yards and open spaces in connection with dwelling-houses, and (d) the provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of removal of house refuse and other matters (sect. 23 (1)).

In respect of the following matters, the byelaws may be made to apply to existing buildings as well as to new buildings, namely, (a) drainage of buildings, (b) water-closets, earth-closets, privies, ashpits, and cesspools in connection with buildings, (c) keeping water-closets supplied with sufficient water for flushing (*ibid.* (2)).

Sect. 157 of the Act of 1875 as amended by the foregoing provisions, is to apply to enable *rural* authorities to make bye-laws with respect to the following matters:—(a) the structure of walls and foundations of new buildings for purposes of health, (b) the sufficiency of the space about buildings to secure a free circulation of air, and the ventilation of buildings, (c) the drainage of buildings, water-closets, earth-closets, privies, ash-pits, and cesspools in connection with buildings; the closing of buildings or parts of buildings unfit for human habitation, and prohibition of their use for such habitation, (d) the structure of floors, and the height of rooms to be used for human habitation, (e) the keeping of water-closets supplied with sufficient water for flushing (*ibid.* (3)).

Sect. 158 of the Act of 1875 (*ante*, p. 124) is to apply to *rural* authorities (*ibid.*).

A local authority may make byelaws to prevent buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws (*ibid.* (4)).

Where buildings have been described in deposited plans otherwise than as dwelling-houses, no person must use or permit them to be used for the purpose of habitation except by the caretaker and his family. Such premises, however, or any part thereof may be converted to be used as a dwelling-house by making such structure or alterations as the local authority may think necessary, provided that it possesses such open space as statute requires with respect to dwelling-houses (sect. 33). It will be observed that the local authority cannot dispense with this last-mentioned proviso.

In the district of an *urban* sanitary authority a person intending to erect or pull down any building or to alter or repair the outward part thereof in any street or court must (a) put up hoardings unless the authority dispense with same, (b) make a proper footway for passengers, (c) continue the same so long as the authority requires, (d) light the same if required by the authority, (e) remove same when required by the authority. Where the part of this Act (Part III.) is adopted, sect. 80 of the Towns Improvements Clauses Act, 1847, is repealed (sect. 34). The repealed section contains similar provisions to the present, but less effective.

In *urban* sanitary districts, owners or occupiers of the premises to which they belong must keep in good condition and repair (a) all vaults, arches, and cellars under any street, (b) openings thereto in the surface, (c) all cellar-heads, gratings, lights, coal-holes in the surface of any streets, (d) all landings, flags, or stones of the path or street supporting same. If default is made the authority may, after twenty-four hours' notice, do what is necessary and recover the cost summarily (sect. 35).

In *urban* sanitary districts every building used as a place

of public resort (*s*) must be constructed substantially and supplied with proper means of ingress and egress, having regard to the purposes of the building and the number of persons likely to be assembled at any one time. While being used the means of ingress and egress must be kept free and unobstructed during the whole time to such extent as the authority requires. An officer authorised in writing by the urban authority, and producing his authority if so required, may at all reasonable times enter any such building to see that the provisions of this section are carried into effect. The persons liable are the occupier and manager and (where the building is let for less than a year) the owner. This section is not to apply to a place of public worship used as such before the adoption of the part of the Act containing this section (sect. 36).

Whenever large numbers of persons in *urban* sanitary districts are likely to assemble on the occasion of any show, entertainment, public procession, open-air meeting, or similar occasion, any roof, platform, balcony or other structure to be used by a number of persons must be safely constructed or secured to the satisfaction of the surveyor of the authority (sect. 37).

An *urban* sanitary authority may make byelaws for the prevention of danger from whirligigs and swings when driven by steam power, and from the use of firearms in shooting ranges and galleries (sect. 38).

Urban authorities may maintain, alter and remove in any public street, raised pavings or refuges for the protection of

(*s*) The section provides that this shall mean a building used or constructed, or adapted to be used either ordinarily or occasionally as a church, chapel, or other place of public worship (not being merely a dwelling-house so used), or as a theatre, public hall, public concert-room, public ball-room, public lecture-room, or public exhibition room, or as a public place of assembly for persons admitted thereto by tickets or by payment, or used, or constructed, or adapted to be used, either ordinarily or occasionally, for any other public purpose, but shall not include a private dwelling-house used occasionally or exceptionally for any of those purposes.

passengers and traffic, or for making the crossing of any street less dangerous (sect. 39).

An *urban* sanitary authority may provide, maintain and remove shelters for cabmen and such other persons as the authority may permit to use the same. The authority may also make regulations and byelaws as to the user and fees (if any) to be charged for the use of such shelters (sect. 40).

Where the present part (Part III.) of this Act is adopted the following provisions are substituted for sect. 152 of the Public Health Act, 1875 (*ante*, p. 123): Wherever any of the works mentioned in sect. 150 of the Act of 1875 (*ante*, p. 122) have been executed in any street or part thereof by an *urban* sanitary authority, and the authority are of opinion that such street or part ought to become a highway repairable by the inhabitants at large, they may by notice fixed up in such street or part declare it to be such a highway. It is provided, however, that this shall not operate if within a month the majority in number or value of owners of such street object in writing (sect. 41).

An *urban* authority may authorise the erection of statues or monuments in streets or public places, and may maintain the same, whether erected before or after the adoption of the part of the Act (Part III.) containing the present section. They may also remove any statue or monument, the erection of which they have authorised (sect. 42).

An *urban* authority may plant trees in any highway repairable by the inhabitants at large, and may fence them. The trees, however, must not be planted or allowed to remain so as to hinder the reasonable use of the highway, or so as to become a nuisance or injurious to any adjacent owner or occupier (sect. 43).

Private Streets Works Act, 1892.—This Act is adoptive. So far as *urban* sanitary authorities are concerned, sect. 3 contains the provisions as to adoption. There is no need to set these out in this place, as they are substantially the same as those for the adoption of the Infectious Disease (Prevention) Act, 1890 (*ante*, p. 97), to which the reader is referred. The

only differences are that (1) instead of the fourteen days' notice of the meeting at which the resolution of adoption is to be proposed one month is substituted, and (2) for the provision for publishing the resolution the following is substituted:—Such resolution shall be published by advertisement in some one or more newspapers circulating within the district of the authority, and by causing notice thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually fixed, and otherwise in such manner as the authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time not less than one month after the first publication of the advertisement of the resolution, as the authority may by the resolution fix, and upon its coming into operation this Act shall extend to that district.

As to *rural* sanitary authorities, sect. 4 provides that the Local Government Board may declare that the provisions contained in this Act shall be in force in any *rural* sanitary district, or any part thereof, and may invest a *rural* sanitary authority with the powers, rights, duties, capacities, liabilities and obligations which an *urban* authority may acquire by adoption of this Act, in like manner and subject to the same provisions as they are enabled to invest *rural* sanitary authorities with the powers of *urban* sanitary authorities under the provisions of sect. 276 of the Public Health Act, 1875 (*ante*, p. 18).

By sect. 25 it is provided that where the present Act is in force it shall take the place of sects. 150—152 of the Public Health Act, 1875 (*ante*, pp. 122, 123), and of sect. 41 of the Public Health Acts Amendment Act, 1890 (*ante*, p. 129), where such section is applicable.

It is important to note that, by sect. 5, the definition of "street" given in sect. 4 of the Public Health Act, 1875 (*ante*, p. 29), is for the purposes of the present Act to be deemed to have the following words added, namely, "and not being a highway repairable by the inhabitants at large." In other words, "street" in the present statute means "private street." By the same section the words referring to "paving, metalling,

and flagging," are to be construed as including macadamising, asphalting, gravelling, kerbing, and every method of making a carriageway or footway.

Where a street, or part of a street, is not sewered, levelled, paved, metalled, flagged, channelled, made good, or lighted to the satisfaction of the authority, such authority may resolve to do the work necessary to make the defect good. The works necessary for this purpose are called "private street works." The expenses are to be apportioned on the fronting, adjoining, or abutting premises (sect. 6 (1)).

The surveyor must prepare (a) a specification with plans and sections, (b) an estimate, (c) a provisional apportionment of the expenses in accordance with the schedule to the Act; and must submit same to the authority, who may approve the same with or without modification or addition (*ibid.* (2)).

The resolution must be published in manner provided in the schedule to the Act (*t*), and copies must be served on the owners. The specification must be kept open for inspection for a month (*ibid.* (3)).

During the month any owner liable to be charged may give written notice of objection on any of the following grounds:— (a) That an alleged street, or part of a street, is not or does not form part of a street within the meaning of this Act; (b) that a street, or part of a street, is (in whole or in part) a highway repairable by the inhabitants at large; (c) that there has been some material informality, defect, or error in or in respect of the resolution, notice, plans, sections, or estimate; (d) that the proposed works are insufficient or unreasonable, or that the estimated expenses are excessive; (e) that any premises ought to be excluded from or inserted in the provisional apportionment; (f) that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection, or (where the provisional apportionment is made with regard to other considerations than frontage as hereinafter provided) in respect of the degree of benefit to be derived by any persons,

(*t*) *I.c.*, by insertion two successive weeks in local newspaper, and posting three successive weeks in or near the street in question.

or the amount or value of any work already done by the owner or occupier of any premises (sect. 7).

After the expiration of the month the authority may apply to a Court of summary jurisdiction to appoint a time for determining objections, and must publish notice of the time and place appointed and serve copies upon the objectors. The Court may determine the matter in the same way as if the authority were proceeding summarily to recover a sum of money. The Court may quash or amend the resolution, &c., wholly or in part. An objection which could be made under the present section cannot be made in any other connection. Costs are in the discretion of the Court, and those payable by objectors may be ordered to be charged as part of the expenses of the works chargeable against such objectors (sect. 8).

The authority may include in any works to be done under this Act any work necessary for bringing the street into conformity with any other streets (whether repairable or not by the inhabitants at large), including separate sewers for sewage and surface water. In the estimate of expenses there may be included a commission (not exceeding 5 per cent.) in respect of service, superintendence, and notices (sect. 9).

The provisional apportionment of expenses is *primâ facie* to be according to the frontage of the premises chargeable, but regard may be had to the following considerations: (a) the greater or less degree of benefit to be derived by any premises from such works; (b) the amount and value of any work already done by the owners or occupiers of any such premises. Furthermore, premises may be charged which do not front, adjoin, or abut on the street, but to which access is obtained from the street through a court or passage, if the authority considers that such premises would be benefited by the works (sect. 10).

The authority may from time to time amend the specifications, &c., but if the total estimate is increased there must be fresh publication, &c., as in sect. 6 (3) (*ante*, p. 131) (sect. 11).

Upon completion of the works the surveyor must make a final apportionment by dividing the expenses in the same proportions as in the provisional apportionment; and such final

apportionment is conclusive for all purposes. Notice thereof must be served upon the owners, and the sums apportioned are recoverable in the same manner as "private improvement expenses" (*u*) (sect. 12 (1)).

Within a month after notice of final apportionment any owner charged may object in writing thereto on any of the following grounds: (a) that the actual expenses have without sufficient reason exceeded the estimated expenses by more than fifteen per cent., (b) that the final apportionment has not been made in accordance with this section, (c) that there has been an unreasonable departure from the specifications, plans, and sections. These objections are determinable in the same manner as objections to the provisional apportionment (*ibid.* (2 and 3)).

The sum payable in respect of any premises becomes a charge thereon with interest at the rate of 4 per cent. per annum, and the authority have the same power of sale, leasing and appointing a receiver, as are given to mortgagees by the Conveyancing Act, 1881. The authority must keep a register of such charges, which is to be open to inspection (sect. 13).

Apart from the foregoing, the authority may recover the sum due from the owner in a Court of summary jurisdiction, or, as a simple contract debt in any other courts (sect. 14).

The authority may, if they think fit, themselves pay the whole or any part of the expenses of private street works instead of throwing same upon the owners (sect. 15).

Churches, chapels, and other places appropriated to public worship, and churchyards and burial grounds attached thereto which are exempt from poor rate, are not liable to expenses of private street works (sect. 16).

Limited owners may mortgage their lands for the purpose of raising money to meet expenses of private street works (sect. 17).

Authorities may, with the sanction of the Local Government Board, borrow for the purpose of temporarily providing for the expenses of private street works (sect. 18).

Whenever private street works have been executed in a

(*u*) For meaning, see *ante*, p. 29.

street or part of a street the authority may constitute the same a highway repairable by the inhabitants at large by notice fixed up therein (sect. 19).

Upon a street being sewered, levelled, paved, metalled, flagged, channelled, and made good to the satisfaction of the authority, the greater part in value of the owners may apply that the street become a highway repairable by the inhabitants at large, and the authority must, within three months, accede to the application by notice put up in the street (sect. 20).

The authority must keep separate accounts of monies expended and recovered by them in the execution of the provisions of this Act; and all monies recovered must be applied in repayment of monies borrowed for the purpose of the Act; or if there be no such loan, then as may be directed by the Local Government Board (sect. 21).

Railway and canal companies whose lands abut on, but do not communicate with, streets are not chargeable with private street expenses (sect. 22).

Expenses incurred by the authority in the execution of this Act, and not otherwise provided for, are chargeable as expenses incurred in the execution of the Public Health Acts (sect. 23).

Powers given by this Act (where applicable) are cumulative to all other powers, and are not to affect the exercise of the latter (sect. 24).

Public Health Acts Amendment Act, 1907.—For the method and conditions by and under which the provisions of this Act become applicable, see *ante*, p. 44.

Where a byelaw in force in any district requires the deposit with the local authority of plans or sections of any street or building, the authority may, by notice in writing to the depositor, declare the same to be of no effect if the work be not commenced (a) as to plans and sections deposited before this section became applicable, within three years from the section becoming applicable; (b) as to plans and sections deposited on or after this section became applicable, within three years of the deposit. When such declaration has been made, a fresh deposit is necessary before the work can be commenced. The

authority must give notice of the foregoing provisions to every person intending to make a new street or building in relation to which plans and sections have been deposited before this section became applicable, unless the work has already been commenced. Furthermore, a similar notice must be attached to the approval of plans and sections deposited subsequent to this section becoming applicable (sect. 15).

The local authority may retain drawings, plans, &c. approved by them (sect. 16).

On the deposit of a plan or sections of a new street the local authority may vary the intended position, direction, termination or level of such street so far as necessary to secure better means of communication with any other street, or to secure an adequate opening at either end, or to secure compliance with any enactment or byelaw. The authority may also fix the points at which the street shall be deemed to begin or end. These powers, however, must not be exercised where the authority are satisfied that compliance would entail the purchase of additional lands by the owner of the lands on which the new street is to be laid out, or the execution of works elsewhere than on those lands. The authority must pay compensation to any person injuriously affected by the exercise of these powers (sect. 17).

The local authority may allow the provision of new means of access for cattle, horses, carriages, &c. to or from premises in any street which has become a highway repairable by the inhabitants at large, where such provision involves crossing a kerbed or paved footway; subject, however, to the following conditions, viz.: (a) notice in writing of the intention to provide the means of access must be given to the local authority, and a plan submitted for approval; (b) the work must be executed under the supervision and to the reasonable satisfaction of the authority; (c) the new means of access may only be used subject to the conditions which attach to the use of a highway repairable by the inhabitants at large when such highway is used as a carriageway (sect. 18).

Where in any street which is not a highway repairable by the inhabitants at large, repairs are required to prevent danger

to passenger or vehicle, the local authority may by notice in writing require the owners of lands or premises in the street to execute such repairs within a specified time. If default is made in doing the repairs the authority may themselves execute them, and recover the expense summarily from the owners as a civil debt. Each owner is chargeable proportionately to the frontage of his land or premises. Where the owner or his place of abode cannot be found, the authority may give the notice to the occupier, or if none, may affix it on the land or premises. Within the time specified in the notice the majority in number or rateable value of owners may, by notice in writing, require the authority to proceed under sect. 150 of the Public Health Act, 1875 (*ante*, p. 122), or under the Private Streets Works Act, 1892 (*ante*, p. 129 *et seq.*), if it be in force in the district. Upon the authority having so proceeded they must declare the street to be a highway repairable by the inhabitants at large (sect. 19).

Where the footway of any street repairable by the inhabitants at large is injured by excavations or other works in adjoining lands, the local authority may repair the footway, and recover the damages and expenses from the owner of such lands, or from the person causing or responsible for the injury (sect. 20).

With the consent of two-thirds in number and value of the ratepayers in any street the local authority may alter the name of such street or any part thereof. The authority may cause the name of any street or part thereof to be indicated on a conspicuous part of any building. A person is liable to penalties for defacing or removing any such name (sect. 21).

The local authority may require any corner building intended to be erected to be rounded or splayed off. For any loss which the owner sustains thereby the authority must pay compensation (sect. 22).

The following is to be deemed the erection of a new building:—(a) The re-erection, wholly or partially, of any building of which an outer wall is pulled down or burnt down to or within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far

pulled down or burnt down as to leave only the framework of the lowest storey; (b) the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only; (c) the re-conversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house; (d) the making of any addition to an existing building by raising any part of the roof, by altering a wall, or making any projection from the building, but so far as regards the addition only; and (e) the roofing or covering over of an open space between walls or buildings (sect. 23). Where this section has been made applicable, it will operate as an amendment of sect. 159 of the Public Health Act, 1875 (*ante*, p. 124).

Sect. 157 of the Public Health Act, 1875 (*ante*, p. 123), is extended so as to empower the local authority to make bye-laws with respect to the height of buildings, the height of chimneys, the structure of chimney shafts for the furnaces of steam engines, breweries, distilleries, or manufactories. Where this section has been made applicable, sect. 158 of the Act of 1875 (*ante*, p. 124) shall nevertheless be in force (sect. 24). It must be noted that sect. 157 of the Act of 1875 is extended by sect. 23 of the Public Health Acts Amendment Act, 1890 (*ante*, pp. 126, 127), where the latter statute has been adopted.

Where any yard exclusively belonging to a dwelling-house is not made or provided with works so as to allow of the proper drainage of the subsoil or surface, the local authority may give the owner twenty-one days' notice in writing to execute such works. In default the authority may themselves execute the works and recover the expenses summarily from the owner as a civil debt (sect. 25).

Entrances to courts must not be closed or altered by any permanent structure so as to impede the free circulation of air, and the height must not be lowered. The local authority, however, may consent to such closing, alteration, or lowering, subject to such conditions as they may prescribe with respect to the provision of another sufficient opening, or means of

access, or means of securing a free circulation of air. Nothing in this section shall have effect in relation to a court which by reason of its situation or other characteristics adds to the ornament or amenity of any land or premises (sect. 26).

No temporary building must be erected without the permission of the local authority. Application for permission must be accompanied by plans, sections and specifications. The authority must signify approval or disapproval within one month. The authority may attach to their approval conditions relating to sanitation, means of ingress and egress, protection from fire, and the period during which the building is to stand. Violation of the foregoing provisions involves penalties, and in addition the authority may cause the building to be pulled down or removed, and the expense of so doing may be recovered summarily from the owner or person erecting the building. Where the authority pulls down or removes the building they may sell the materials and must apply the proceeds towards payment of the cost and expenses of pulling down or removal, and shall pay the balance to the owner. This section is not to operate as regards the following buildings: (a) Any building expressly exempt from the operation of the Public Health Acts or the byelaws made under those Acts and in force for the time being within the district; (b) any building erected or set up for the purpose of protecting or of preventing the acquisition of rights to light; (c) any temporary building set up as part of the plant to be used in connection with the construction, alteration, or repair of any building or other work; but so far as regards only so much of this section as relates to plans, sections, and specifications (sect. 27).

Where a local authority executes works in any street they may remove, appropriate, use, and dispose of the old materials unless the owners remove them within forty-eight hours after notice by the surveyor. The authority must allow the reasonable value of such materials to the owners (sect. 28).

It is unlawful for any person, without the consent of the local authority in writing first obtained, to deposit building materials, rubbish, or other thing, or to make excavations in

any street repairable by the inhabitants at large. When such consent has been obtained such person must properly fence and light same during the night. He must also remove such materials, &c., or fill up such excavation when required by the local authority. In case of default he becomes liable to penalties; and further, the authority may do what is necessary themselves and recover the expenses from such person summarily as a civil debt (sect. 29).

Where in any street there exists any structure, excavation, stream, &c., which is dangerous for want of sufficient repair, protection, or enclosure, the local authority may, by notice in writing, require the owner within a specified period to do what is necessary to prevent danger. In case of default the authority may themselves do what is necessary, and recover the expenses from the owner summarily as a civil debt (sect. 30).

Where land not forming part of a common adjoining a street is unfenced or inadequately fenced so that such land is a source of danger to passengers, or is used for any purpose immoral or indecent, or causing inconvenience or annoyance to the public, the local authority may serve upon the owner or occupier notice in writing requiring a proper fence to be supplied or repaired. In default, the authority may themselves cause the land to be fenced, or the fences to be repaired, and they may recover the expense from the owner or occupier summarily as a civil debt. Before serving the notice, the authority must obtain an order of the Local Government Board empowering them to proceed under this section (sect. 31).

A person must not use any hoarding or similar structure which is in, or abuts on, or adjoins any street, for any purpose, unless it is securely fixed to the satisfaction of the local authority (sect. 32).

Nothing in this part (Part II.) of the present Act or in any byelaws made under any enactment extended by this part is applicable to a building (other than a dwelling-house) belonging to a railway company, or to any company or other public body authorised to construct, maintain, or improve a harbour,

pier or dock, or to the owners of any canal or inland navigation, and used by the company, public body, or owners as a part of, or in connection with, their railway, harbour, pier, dock, canal or inland navigation (sect. 33). The byelaws referred to are those which may be made under sect. 24 (*supra*, p. 137).

CHAPTER XVI.

PLEASURE GROUNDS, ETC.

THE provisions to be dealt with are sects. 164, 165, 171, and 172 of Part IV. of the Public Health Act, 1875, sects. 44—46 of Part III. of the Public Health Acts Amendment Act, 1890, and sects. 76, 77 (Part VI.), sects. 82, 83, of Part VII., and sects. 92—94 (Part X.) of the Public Health Acts Amendment Act, 1907.

Public Health Act, 1875.—An *urban* sanitary authority may themselves provide public walks or pleasure grounds, and may help to support those provided by other persons. They may make byelaws for the regulation of same, which may provide for the removal of persons infringing same (sect. 164).

An *urban* sanitary authority may provide clocks upon public buildings, or (with the consent of the owner or occupier) upon private buildings (sect. 165).

In *urban* sanitary districts the provisions of the Towns Police Clauses Act, 1847, are deemed to be incorporated with the present Act for the purpose of regulating the following matters, viz.: (i.) obstructions and nuisances in streets, (ii.) fires, (iii.) places of public resort, (iv.) hackney carriages, (v.) public bathing (sect. 171) (*v*).

Urban sanitary authorities may license and make regulations and byelaws relating to horses, ponies, mules, or asses, pleasure boats, and vessels for hire (sect. 172).

Public Health Acts Amendment Act, 1890.—For the application of this adoptive Act, see *ante*, p. 40.

(*v*) These are as to: (i) sects. 21—29; (ii) sects. 30—33; (iii) sects. 34—36; (iv) sects. 37—68; (v) sect. 69.

An *urban* sanitary authority may close to the public any park or pleasure ground or part thereof provided by them, and grant the use of same gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose. Such closing and grant must not exceed twelve days in the year, nor be for more than four consecutive days, nor be for a Sunday or public holiday. The authority may also provide or license the provision of pleasure boats on any lake or piece of water in their parks or pleasure grounds, and may make byelaws regulating the same (sect. 44).

The powers of an *urban* sanitary authority, under sect. 164 of the Act of 1875 (*ante*, p. 141), to contribute to the support of public walks or pleasure grounds, are to include the power to contribute towards the cost of laying out or improving lands provided by any person if permanently set apart as public walks or pleasure grounds. These may be either within or without the district so long as they are conveniently situate (sect. 45).

Sect. 165 of the Act of 1875 (*ante*, p. 141) is to include the power to pay the cost of repairing, &c. of any public clock in the district, even when not vested in the authority (sect. 46).

Public Health Acts Amendment Act, 1907.—As to the conditions under which this Act becomes applicable, see *ante*, p. 44.

A local authority may exercise the following powers with respect to public parks and pleasure grounds provided by them or under their management and control, viz.: (a) to make provision during time of frost for ice skating; (b) to set apart parts of the park or ground for cricket, football, or other game or recreation; (c) to provide apparatus for games and recreations; (d) to provide and contribute towards the expenses of bands; (e) to make enclosures for listening to such bands; (f) to provide or allow the provision of chairs or seats; (g) to provide reading rooms, pavilions, &c.; (h) to let pavilions and other buildings for entertainments; (i) to provide refreshment rooms. The Local Government Board may make rules

prescribing restrictions or conditions to which the foregoing powers are to be subject as regards the enclosure or setting apart of any area or in relation to its use as the site of a building or convenience (sect. 76).

The authority may appoint officers for securing the observance of the foregoing, who may be sworn in as constables, but must not act as such unless in uniform or provided with a warrant (sect. 77). This and the preceding section operate as extensions of the above provisions of the Acts of 1875 (and 1890 where adopted).

A local authority may, for the prevention of danger, obstruction or annoyance to persons using the seashore, make byelaws (i.) regulating the erection of booths, stalls, &c., vehicles used for the sale of things, shows, swings, &c., the playing of games, and general user; (ii.) regulating the user for riding and driving; (iii.) regulating selling and hawking; (iv.) providing for the preservation of order and good conduct (sect. 82).

Local authorities may, for the prevention of danger, obstruction or annoyance to persons using esplanades or promenades, make byelaws as to the traffic, hawking, and generally for the preservation of order and good conduct (sect. 83).

Local authorities may make byelaws with regard to public bathing (sect. 92).

Local authorities may provide life-saving appliances where they think the same are likely to be of use (sect. 93).

Local authorities may license pleasure boats and vessels upon such terms and conditions as they may think fit, and suspend or revoke the same. Such licences may provide for the number of passengers to be carried, and each boat or vessel must display conspicuously the name of the licensee and the number of persons it is licensed to carry (sect. 94). Where this section is applicable, it acts as an extension of sect. 172 of the Act of 1875 (*ante*, p. 141).

Mention may also be made of the following statutes, which

relate to the provision of public parks and recreation grounds, namely:—

(a) The Town Gardens Protection Act, 1863, which provides for the protection of gardens or ornamental grounds in *cities* and *boroughs*, and under which gardens in squares, &c. may be taken charge of by the authorities in such places. It also provides penalties for trespassing on or injuring, &c. such gardens or grounds.

(b) The Open Spaces Act, 1906, which confers powers in relation to open spaces upon the following bodies, namely, the *Metropolitan boroughs* and *City Corporation* in London, and the *county councils, municipal corporations, urban and rural district councils* and *parish councils* in the provinces. It enables trustees under local or private Acts to transfer open spaces and disused burial grounds to the above authorities. It enables local authorities to acquire and maintain open spaces and disused burial grounds, and to make byelaws with reference to same. The authorities may act jointly. County councils may purchase or lease and lay out lands for use as public works or pleasure grounds, and may help to support those provided by other persons.

See also "Commons" (*post*, Ch. XXI., p. 177).

CHAPTER XVII.

MARKETS AND SLAUGHTER-HOUSES.

THE provisions under above head are contained in sects. 166—170 of Part IV. of the Public Health Act, 1875, the Public Health Act, 1908, and sects. 29—31 of Part III. of the Public Health Acts Amendment Act, 1890.

Markets.

Public Health Act, 1875.—*Urban* sanitary authorities may do the following things, namely, (a) provide a market place, and construct a market house and other conveniences, for the purpose of holding markets, (b) provide houses and places for weighing carts, (c) make convenient approaches to such market, (d) provide all such matters and things as may be necessary for the convenient use of such market, (e) purchase or take on lease land and public or private rights in markets and tolls for any of the foregoing purposes, (f) take stallages, rents and tolls in respect of the use by any person of such market. In the case of *urban districts* the foregoing powers can only be exercised with the consent of the owners and ratepayers of such district expressed by resolution passed in the manner provided by Schedule 3 of the Act. In the case of *municipal corporations* the powers can only be exercised with the consent of two-thirds of the council (sect. 166). As to *rural* sanitary authorities, see the Act of 1908, *post*, p. 146.

To enable an authority to establish or regulate markets certain provisions of the Markets and Fairs Clauses Act, 1847, are deemed to be incorporated so far as the same relate to markets (*w*), that is to say, with respect to (a) holding of the

(*w*) These provisions are: Sects. 12—16, relating to holding of the market, &c.; sects. 21—30, relating to the weighing of goods and carts; and sects. 31—41, relating to tolls.

market or fair, and protection thereof, (b) weighing goods and carts, (c) stallages, rents and tolls. All tolls, however, leviable in pursuance of this section must be approved by the Local Government Board. The authority may also make byelaws for any of the purposes mentioned in sect. 42 of the aforesaid Act so far as they relate to markets (*x*). Printed copies of any such byelaws must be conspicuously exhibited in the market (sect. 167).

The authority may purchase the undertaking of any market company, and the directors of such company may sell the undertaking to the authority with the assent of the shareholders given by special resolution (sect. 168).

Public Health Act, 1908.—This statute provides that the foregoing provisions of the Act of 1875 shall apply to *rural* sanitary authorities to enable them to establish, regulate and acquire markets. For the consents, however, mentioned in sect. 166 of the Act of 1875 (*ante*, p. 145) there shall be substituted that of the Local Government Board.

Slaughter-houses.

Public Health Act, 1875.—An *urban* sanitary authority may provide slaughter-houses (*y*); and if they do they must make

(*x*) Such purposes are for regulating (a) the use of the market place, and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the intermediate approaches thereto: (b) for fixing the days and the hours during each day on which the market shall be held; (c) for inspection of the slaughter-houses, and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every twenty-four hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein; (d) for regulating the carriers resorting to the market, and fixing the rates for carrying articles carried therefrom; (e) for regulating the use of the weighing machines provided by the authority and for preventing the use of false or defective weights, scales, or measures; (f) for preventing the sale or exposure for sale of unwholesome provisions in the market.

(*y*) "Slaughter-house" includes the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place

byelaws with respect to the management, and charges for the use of same. For the purpose of enabling such authorities to regulate slaughter-houses within their district the provisions of the Towns Improvements Clauses Act, 1847, with respect to slaughter-houses (*z*) are deemed to be incorporated with the present Act (sect. 169).

The owner or occupier of any licensed (*a*) or registered (*a*) slaughter-house must put up in some conspicuous place a notice, with the words "licensed slaughter-house," or "registered slaughter-house," as the case may be (sect. 170).

Public Health Acts Amendment Act, 1890.—For the method and conditions of adoption of this Act, see *ante*, p. 40. The following provisions extend sects. 169 and 170 of the Act of 1875 (*ante*, p. 146 *et supra*).

Licences for slaughter-houses granted after the adoption of this part (Part III.) of this Act are to be in force for such time only (not being less than twelve months) as shall be specified in the licence (sect. 29).

Upon any change of occupation of a licensed slaughter-house, the new occupant must give the inspector of nuisances notice in writing thereof (sect. 30).

A licence for a slaughter-house may be revoked upon a conviction for the sale of meat unfit for human food (sect. 31). See *ante*, p. 83.

used for slaughtering cattle, horses, or animals of any description for sale (sect. 4).

(*z*) The provisions referred to are sects. 125—131, which relate to the licensing, registration, and inspection of slaughter-houses and knackers' yards, the making of byelaws (for such licensing, registration and inspection, the prevention of cruelty, cleanliness, removal of filth and supply of water), and the seizure and destruction of carcases unfit for human food.

(*a*) Slaughter-houses in existence before the Act of 1847 only require registration; those made since, require licensing as well as registration.

CHAPTER XVIII.

RATING, BORROWING, AND AUDIT.

The above topics scarcely belong to the subject-matter of this volume. They are, however, dealt with shortly, as they form part of the provisions of the Public Health Act, 1875. Readers directly interested therein must refer for fuller treatment to works dealing specifically with the subject of rating, and the finance of local government generally. The following provisions are taken from Part VI. of the Act of 1875:—

Expenses of Urban Sanitary Authorities.

General District Rate.—Expenses incurred or payable by an *urban* sanitary authority in the execution of this Act (*b*), and not otherwise provided for, must be charged on and defrayed out of the district fund and general district rate leviable under this Act (sect. 207).

The authority must establish a fund called the "district fund," and the treasurer must keep an account called the "district fund account" (sect. 209).

For the purpose of defraying expenses chargeable on the fund, the authority must from time to time levy a rate called the "general district rate" (sect. 210).

Such rate is leviable on the occupier of all kinds of property assessable to any rate for the relief of the poor, and is assessable on the full net annual value thereof. Where the rateable value of the premises does not exceed £10, or they are let to weekly or monthly tenants, or they are let in separate apart-

(*b*) And, of course, the Acts to be read therewith, *i.e.*, the Public Health Acts generally.

ments, or where the rents are payable, or collected at a shorter period than quarterly, the rate may be levied upon the owner instead of the occupier (sect. 211).

The foregoing section also provides that arable, meadow, or pasture land, woodlands, market gardens, nursery grounds, &c., are to be assessed in the proportion of one-fourth only of the net annual value. By the Public Health (Rating of Orchards) Act, 1890, this is to include orchards, and by the Allotments Rating Exemption Act, 1891, it is to include allotments.

Private Improvement Rate.—For the purpose of defraying "private improvement expenses" (*c*), a special rate may be levied on the occupier of the premises in respect of which such expenses have been incurred, in addition to all other rates. Such special rate is called a "private improvement rate" (sect. 213). For examples of private improvement expenses, see sect. 23 (*ante*, p. 31), sect. 36 (*ante*, p. 34), sect. 41 (*ante*, p. 35), sect. 62 (*ante*, p. 52), &c. Examples are also to be found in the Public Health (Water) Act, 1878, the Public Health Acts Amendment Act, 1890, the Housing of the Working Classes Act, 1890, and the Private Streets Works Act, 1892.

Where the occupier holds at a rack-rent (*d*), he may deduct three-fourths of any private improvement rate from his rent, and if he holds at less than a rack-rent, then he may deduct a proportionate amount (sect. 214).

Highway Rate.—Where the whole of a district is rated for works of paving, water supply, and sewerage, the cost of repair of highways is defrayed out of the general district rate. Where no part of the district is so rated the cost of repair of the highways is defrayed out of a highway rate levied throughout the whole district by the authority as surveyor of highways. Where part of the district is so rated and part not, a highway rate is levied as to the latter, and as to the former the repair

(*c*) For definition, see *ante*, p. 29.

(*d*) For definition, see *ante*, p. 28.

of the highway is defrayed out of the general district rate (sect. 216).

General Provisions.—Before making a rate an estimate must be prepared (sect. 218).

Any person interested in a rate may inspect the same, and also the estimate upon which it is based (sect. 219).

Where the name of the owner or occupier of premises liable to a rate is not known, he may be rated merely as "the owner," or "the occupier" (sect. 220).

A rate may be amended from time to time by inserting, striking out, or amending the name of the person inserted or who ought to have been inserted, or in any other respect, so as to make the rate conformable to the statute (sect. 221).

The foregoing rates shall be published in the same manner as poor rates, and shall commence, be payable, be collected, and be made in such manner and form as the authority may appoint. Publication, however, of a private improvement rate is not required (sect. 222).

The production of the rate books shall be *primâ facie* evidence of the making and validity of the rates mentioned therein (sect. 223).

Where premises were sufficiently drained before the construction of a new sewer laid down by the authority, the authority may allow some deduction from the rates which would be otherwise payable in respect of such premises (sect. 224).

The authority may reduce or remit payment of rate on account of poverty (sect. 225).

Nothing in this part of the Act is to affect any agreement made between the landlord and tenant of the premises (sect. 226)—that is, of course, as between themselves. No agreement between such parties can affect the incidence of the rate as regards the authority.

Expenses of Rural Sanitary Authorities.

General and Special Expenses.—Expenses incurred in the execution of this Act (*e*) are divided into "general expenses"

(*e*) And of course the Acts to be read therewith, *i.e.*, the Public Health Acts generally.

and "special expenses." General expenses (other than those expressly chargeable by the statute on owners and occupiers) are those in relation to the establishment and officers of the authority, disinfection, conveyance for infected persons, and all other expenses not determined by the statute or order of the Local Government Board to be special expenses. Special expenses are certain expenses incurred in respect of a "contributory place" (*f*), and are those relating to sewers, water supply (so far as not defrayed out of water rates or rents), to the possession of property held in trust for such place, and all other expenses in respect of such place ordered by the Local Government Board to be special expenses. Where special expenses are incurred for the common benefit of two or more "contributory places," such expenses may be apportioned (sect. 229).

Both general and special expenses are raised through the overseers of the parishes in the district, but where a parish is a "contributory place" the claims for special and general expenses must be kept separate (sect. 230). The reduction of assessment to one-fourth of the annual value contained in sect. 211 (*ante*, p. 149), in certain cases applies to such cases where situate in a rural district, as do also the provisions of the Public Health (Rating of Orchards) Act, 1890, and the Allotments Rating Exemption Act, 1891, including orchards and allotments respectively (*ante*, p. 149).

(*f*) A contributory place is a "special drainage district" existing or constituted under sect. 277. Such section provides that "it shall be lawful for a rural authority, by resolution to be approved by the Local Government Board, but not otherwise, to constitute any portion of the area within their jurisdiction a special drainage district for the purpose of charging thereon exclusively the expenses of works of sewerage, water supply, or of other works, which by this Act are or by order of the Local Government Board may be declared to be special expenses, and thereupon such area shall become a separate contributory place." "In a rural district each parish is *primâ facie* a separate contributory place" (Wright and Hobhouse, Local Government).

Borrowing Powers.

Local authorities may, with the sanction of the Local Government Board, borrow monies for the purpose of defraying costs, charges and expenses incurred or to be incurred in the execution of the Public Health Acts or for the purpose of discharging existing loans. Such borrowed monies are secured by the local rates and funds (sect. 233).

Money can only be borrowed for permanent works (including works of which the cost ought, in the opinion of the Local Government Board, to be spread over a term of years). The total amount of the loans of a local authority must bear a certain proportion to the aggregate rateable value of the district (sect. 234). Practically the conditions of the loan are determined by the Local Government Board, which otherwise would not give its consent.

Sums may also be borrowed on the credit of sewage works, land, and plant owned by the local authority (sect. 235).

Audit.

Accounts of the receipts and expenditure under the Public Health Acts of every local authority must be made up in such form and to such day in every year as the Local Government Board may appoint (*g*) (sect. 245).

Where the authority is a borough its accounts are to be audited by the borough auditors (sect. 246). Borough auditors consist of three, two elected by the ratepayers, called elective auditors, and one appointed by the mayor, called the mayor's auditor. The accounts are audited half-yearly.

The accounts of *urban* sanitary authorities, except boroughs, and of *rural* sanitary authorities are audited by the district auditor of the Local Government Board (sects. 247 and 248, and Local Government Act, 1894, ss. 58 (*h*) and 59). In the case of the former the audit is yearly, and in the case of the latter it is half-yearly.

(*g*) For General Orders made under this section, see Vol. II. of Lumley's Public Health.

(*h*) For General Orders made under this section, see Vol. II. of Lumley's Public Health.

CHAPTER XIX.

HOUSING OF THE WORKING CLASSES.

Under this head may be indicated very briefly the provisions of the Housing of the Working Classes Acts, 1890—1909. The following are included in this expression: The Housing of the Working Classes Act, 1890, the Housing of the Working Classes Act, 1894, the Housing of the Working Classes Act, 1900, the Housing of the Working Classes Act, 1903, and Part I. of the Housing, Town Planning, &c. Act, 1909. The object of these statutes is best indicated by the full title of the one first mentioned, namely, "to consolidate and amend the Acts relating to artisans' and labourers' dwellings, and the housing of the working classes," and the provisions they contain may be said to relate to the following matters:—(A) unhealthy areas, (B) unhealthy dwelling-houses, (C) working-class lodging-houses, (D) the regulation of contracts in certain cases between landlord and tenant in respect of working-class dwellings, and (E) certain special provisions intended to promote the enforcement of the Acts generally.

(A.) Unhealthy Areas.

The provisions as to unhealthy areas are contained primarily in Part I. of the Act of 1890, as amended by the other statutes above mentioned. This part does not apply to rural sanitary districts (sect. 3), and the expression "local authority" means outside the Metropolis, the urban sanitary authorities, and within the Metropolis, the London County Council, except for

the City, where it means the City Corporation (sect. 92, First Schedule, and City of London Sewers Act, 1897).

Scheme by Local Authority.—Upon official representation that an area is unfit for human habitation, or dangerous or injurious to health, and that the most satisfactory remedy for the evil is an improvement scheme for the re-arrangement and re-construction of the streets and houses, the local authority must consider such representation. If satisfied as to the truth thereof, and as to the sufficiency of their resources, they must forthwith proceed to make an improvement scheme (sect. 4, and also sect. 22 of the Act of 1909).

An official representation means a representation by the medical officer of health of the authority in question. In London, however, it means not only the medical officer of the County Council, but the medical officer of health of a metropolitan borough. The officer may act on his own initiative, but may be compelled to look into the matter upon the complaint of two justices, or twelve ratepayers in the district (sect. 5).

The scheme must be accompanied by maps, particulars, estimates, &c., and must distinguish any land proposed to be taken compulsorily (sect. 6, and sect. 23 of the Act of 1909).

Confirmation of Scheme.—The scheme must be advertised, notice of it must be served on owners, &c., and a provisional order of the Local Government Board authorising it must be obtained (sects. 7 and 8). By virtue of sect. 5 (2) of the Act of 1903, and also sect. 24, sect. 75, and the Sixth Schedule of the Act of 1909, such provisional order does not require confirmation by Parliament.

If the local authority do not act on the official representation, they must notify the Local Government Board, who may hold an inquiry (sect. 10). If the Local Government Board consider a scheme necessary, sect. 4 of the Act of 1903 provides that the local authority must proceed with a scheme.

Accommodation for Displaced.—In London every scheme must provide for the accommodation of at least as many

persons of the working class as may be displaced. Such accommodation must be in suitable dwellings, and unless there are special reasons to the contrary, must be situate within the area of the scheme or in its vicinity; provided however that the Local Government Board may authorise equally convenient accommodation elsewhere than within the area or in the vicinity, and may even, where it is expedient, having regard to the special circumstances of the case, dispense altogether with the obligation to provide such accommodation. Outside of London it is not *primâ facie* necessary that the scheme should provide accommodation for the displaced, but the Local Government Board may order that this shall be done to such extent as the Board may deem proper (sect. 11).

Execution of Scheme.—When the provisional order has been made, the local authority must take the necessary steps to purchase the lands required for the scheme, and otherwise to carry it into execution as soon as practicable. For this purpose they may sell or let all or any part of the area under conditions consistent with the carrying out of the scheme, and they may engage with any person or body to carry out the whole or part of the scheme. They must not, however, themselves undertake the rebuilding or other execution of any part of the scheme without the approval of the Local Government Board. They may, however, clear the whole or any portion of the area, and lay it out as streets or otherwise as they think fit (sect. 12).

If within five years the local authority have not arranged for the erection of workmen's dwellings on any part of the area set aside for that purpose, or have failed to sell or let land for the purposes prescribed by the scheme, the Local Government Board may order the land to be sold, arranging with the purchaser to erect the dwellings (sect. 13).

Where the local authority proposes to take fifteen houses or upwards, they must make known their intention by placards, &c., not less than thirteen weeks beforehand. These notices must be placed upon or within reasonable distance of such houses; and the houses must not be taken until a justice

has certified that this provision has been complied with (sect. 14).

After a scheme has been confirmed the Local Government Board may nevertheless permit modifications that may appear expedient, whether by abandonment or addition (sect. 15, and also sect. 25 of the Act of 1909).

Inspection.—Where in any district twelve or more ratepayers have complained to the medical officer of health of the unhealthiness of an area, but such complaint has had no effective result, such ratepayers may appeal to the Local Government Board, and, upon their giving security for the costs thereof, the Board must inspect the area. If the result of the inspection is to confirm the complaint, the Board can insist upon the local authority treating the communication from the Board as an official representation. In such case the Local Government Board can order the costs of the inquiry to be paid by the local authority (sect. 16, and also sect. 26 of the Act of 1909).

Acquisition of Land.—For acquisition of land compulsorily for the purposes of a scheme, the Lands Clauses Acts are to apply with modifications (sect. 20).

In the assessment of compensation for land required compulsorily the estimated value shall be based upon the fair market value, and where such land is part of an unhealthy area no additional allowance is to be made in respect of the compulsory purchase. Furthermore, nothing shall be allowed for any addition to or improvement of the property after the date of publication of the improvement scheme. Finally, where premises are overcrowded the owner is not to be allowed for the enhanced value caused thereby; where they are in a defective condition a deduction must be made to the extent of what would be necessary to put them into proper condition; and where they are unfit and not reasonably capable of being made fit for human habitation the owner is only to be allowed the value of the land and the materials of the buildings (sect. 21).

Upon purchase of lands required for a scheme all rights

of way and other easements are extinguished subject to the payment of any loss to owners caused thereby (sect. 22).

For the purposes of providing accommodation for working classes displaced by an improvement scheme the local authority may appropriate for such purpose any suitable lands belonging to them, or may purchase further lands by agreement (sect. 23).

Expenses.—All receipts in connection with an improvement scheme must be paid into, and all expenditure must be defrayed out of, a "dwelling-house improvement fund." Any deficiency in such fund must be made up out of the rates or by monies borrowed for the purpose (sect. 24).

Sect. 11 of the Act of 1909 gives the Local Government Board special powers to order schemes, &c. to be carried out within a limited time (see *post*, p. 167).

(B.) Unhealthy Dwelling-houses.

The provisions relating to this topic are to be found mainly in Part II. of the Act of 1890, as amended by the other statutes above mentioned. This part applies to *rural* sanitary districts, and the expression "local authority," therefore, here means outside the Metropolis the urban and rural sanitary authorities, and within the Metropolis the Metropolitan borough councils (not the London County Council as in the case of Part I.), except for the City, where it means the City Corporation (sect. 92, First Schedule, the City of London Sewers Act, 1897, and the London Government Act, 1899).

Definitions.—"Street" includes any court, alley, street, square, or row of houses. It will be observed that this definition is narrower than that contained in sect. 4 of the Public Health Act, 1875 (*ante*, p. 29). By sect. 48 of the Act of 1909 the expression "street" is to have the foregoing meaning in respect also of Part I.

"Dwelling-house" includes any yard, garden, outhouses,

and appurtenances belonging thereto or usually enjoyed therewith, and includes the site of the dwelling-house so defined (sect. 29, and also sect. 49 of the Act of 1909).

Buildings Unfit for Human Habitation.—It is the duty of the medical officer of health of every district to represent to the local authority any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation (sect. 30).

On the complaint of four or more householders living in or near a street that a dwelling-house is unfit as aforesaid, the medical officer must inspect the same and transmit the complaint, with his opinion thereon, to the local authority. In the case of *urban* sanitary authorities, if such an authority declines or neglects to proceed, the said householders may petition the Local Government Board, and the Board may order the authority to proceed (sect. 31). In the case of London, and also in the case of *rural* districts, the case is met by sect. 45 (*post*, pp. 160, 161).

Closing and Demolition Orders.—Every local authority must inspect the district from time to time with a view to the ascertainment of unfit dwellings. Upon the ascertainment of an unfit dwelling the authority must make a closing order prohibiting the use of the same for human habitation until it has been rendered fit for the purpose. The owner may appeal to the Local Government Board. A room habitually used as a sleeping place, of which the floor is more than three feet below the street, is to be deemed unfit if (a) it is not seven feet in height, or (b) does not comply with such regulations as the local authority, with the consent of the Local Government Board, may prescribe for securing proper ventilation and lighting, and the protection against dampness, effluvia, or exhalation. If the authority fail to make such regulations as the Board may approve, the Board may themselves make them (sect. 17 of the Act of 1909).

Where a closing order has remained operative for three months the local authority must consider the desirability of

demolishing the house. The owner must be given an opportunity of being heard. If upon such consideration the authority are of opinion that the house has not been rendered fit, and that the necessary steps to make it fit are not being taken with due diligence, or that the continuance thereof is a nuisance or dangerous or injurious to the health of the public or of the neighbouring inhabitants, they must make a demolition order. The authority may postpone the operation of the order for not more than six months to enable the owner to do what is necessary if he undertakes to do it forthwith. Notice of the demolition order must be served forthwith on the owner, who may appeal to the Local Government Board (sect. 18 of the Act of 1909).

Where a demolition order has been made the owner of the building must take down and remove it within three months. In default the local authority must do so, selling the materials, and after deducting the expenses, paying over the balance, if any, to the owner (sect. 34).

Obstructive Buildings.—If a medical officer of health finds that a building, though not unfit for human habitation, is so situate as to (a) stop the ventilation or otherwise conduce to make other buildings unfit for human habitation, or dangerous or injurious to health; or (b) prevent proper measures for remedying any nuisance injurious to health or other evils in respect of other buildings, the officer must represent the matter to the local authority. Any four or more inhabitant householders may make a similar representation. On receiving such representation the local authority must inquire into the circumstances, and hear the owner, and thereupon make an order either allowing the objections of the owner or ordering the building to be demolished. Such order may be appealed from to the Local Government Board. Upon a demolition order being made under these provisions the local authority may purchase the premises under the provisions of the Lands Clauses Acts. The owner has the option of retaining the land, and pulling down, or permitting the authority to pull down, the

obstructing building, receiving compensation for the value of the building (sect. 38).

Scheme for Reconstruction.—Where (a) a demolition order has been made, and the local authority consider that it will be beneficial to the health of the neighbouring inhabitants if the site were used as a highway or open space, or for the erection of dwellings for the working classes, or exchanged with neighbouring land more suitable for the erection of such dwellings; or (b) where it appears to the local authority that the same evils exist as in the case of an unhealthy area under Part I. of the Act, but that the site is too small to be dealt with as such an area under Part I., in either of these cases the local authority may direct a scheme to be prepared for the improvement of the area. A similar procedure of notice and consent of the Local Government Board must be gone through as in the case of an improvement scheme under Part I., and upon obtaining the provisional order of the Board, the authority may purchase the area under the Lands Clauses Acts (sect. 39, and also sects. 25 and 75, and Sixth Schedule of the Act of 1909).

Settlement of Compensation.—The provisions as to the amount to be paid to owners are largely similar to those in the case of improvement schemes under Part I. of the Act (sect. 41).

Expenses of Borrowing.—Expenses incurred by a local authority in the execution of this part of the Act are to be defrayed out of local rates. In the case of *rural* sanitary authorities the expenses (other than those incurred in connection with the obtaining of a closing order) are to be charged as special expenses on the contributory place in which they are incurred (sect. 42).

The local authority may borrow for the purpose of raising sums required for purchase-money or compensation (sect. 43).

Powers of County Councils.—Where the medical officer of health or any inhabitant householders make a representation

or complaint, or give information to any metropolitan borough in the County of London, or any *rural* sanitary authority elsewhere, or to the medical officer of such authority respecting the unfitness of a dwelling-house or obstructive building, such borough council or rural sanitary authority must forthwith forward the same to the county council. Where such county council are of opinion that a closing or demolition order should be made, they must give one month's notice to such borough council or rural sanitary authority, as the case may be, and if such borough council or sanitary authority fails to take the necessary steps, the county council may themselves make the order (sect. 45). As to *urban* sanitary authorities, see *ante*, p. 17.

Sects. 10 and 11 of the Act of 1909 give the Local Government Board power on complaint to enforce the exercise of powers given by this part of the Act (see *post*, pp. 166, 167).

(C.) Working Class Lodging-Houses.

Under this head come the provisions of Part III. of the Act of 1890, as amended by the other statutes above mentioned. This part of the Act was formerly adoptive, but now, by virtue of sect. 1 of the Act of 1909, it is compulsory. The expression "local authority" means outside the Metropolis the *urban* and *rural* sanitary authorities, and within the Metropolis the London County Council, except for the City, where it means the City Corporation (sect. 92, First Schedule, and City of London Sewers Act, 1897). The expression "lodging-houses for the working classes" includes separate houses or cottages, whether containing one or several tenements (sect. 53).

Execution of Part III.—For the purposes of this part of the Act a local authority may acquire land as if such purposes were those of the Public Health Act, 1875, and sects. 175—178 of the said Act (*ante*, p. 20) are applicable both within and without the Metropolis. The local authority may contract for the purchase or lease of lodging-houses for the working classes

already or hereafter erected. The authority may thereupon appropriate lodging-houses so purchased or taken on lease, and also any other land vested in them or at their disposal, and use the same for the purposes of this part of the Act. To this appropriation the consent of the county council is necessary in the case of a *rural* sanitary authority; in the case of other authorities, the consent of the Local Government Board (sect. 57).

Trustees of lodging-houses for the working classes provided by private subscriptions or otherwise may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease to the local authority, or make over the management to them (sect. 58).

The local authority may, on land acquired or appropriated by them, erect buildings suitable for lodging-houses for the working classes. They may also convert existing buildings, and alter and furnish the same (sect. 59).

A local authority may sell or exchange land vested in them for the purposes of this part of the Act, and for the purpose of acquiring land better adapted for such purposes. The consent of the Local Government Board must be obtained, except in the case of a *rural* sanitary authority, when the consent must be that of the county council (sect. 60).

Management of Lodging-houses.—The general management, regulation and control of the lodging-houses established or acquired by a local authority under this part of this Act shall be vested in and exercised by the local authority. The local authority may make such reasonable charges for the tenancy or occupation of the lodging-houses provided under this part of this Act as they may determine by regulations (sect. 61).

The local authority may make byelaws for the management, use, and regulation of the lodging-houses, and it shall be obligatory on the local authority, except in the case of a lodging-house which is occupied as a separate dwelling, by such byelaws to make sufficient provision for the several purposes expressed in the sixth schedule to this Act. A printed copy or

sufficient abstract of the byelaws relating to the management, use, and regulation of the lodging-houses shall be put up, and at all times kept in every room therein (sect. 62).

Sects. 10, 12 and 13 of the Act of 1909 give the Local Government Board power on complaint to enforce exercises of powers, and confers upon county councils powers to act in default of rural district councils and to exercise the powers of rural district councils, given by this part of the Act (see *post*, pp. 166—168).

(D.) Landlord and Tenant.

Under this head attention must be called to sect. 75 of the Act of 1890, sect. 12 of the Act of 1903, and sects. 14—16 of the Act of 1909.

In any contract for letting for habitation by persons of the working classes a house or part of a house, there is implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation. This provision takes effect notwithstanding any agreement to the contrary, and any such agreement is void. The expression "letting for habitation by persons of the working classes" means in the present connection the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as the limit for the composition of rates by sect. 3 of the Poor Rate Assessment and Collection Act, 1869 (*i*) (sect. 75 of 1890 and sect. 12 of 1903).

In any contract for letting for habitation a house or part of a house at a rent not exceeding (a) in the case of a house situate in the administrative county of London, £40; (b) in the case of a house situate in a borough or *urban* district with a population, according to the last census for the time being, of 50,000 or upwards, £26; (c) in the case of a house situate elsewhere, £16; there is implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation, but the condition aforesaid is not to

(*i*) This means in the Metropolis a rent not exceeding £20, in Liverpool £13, in Manchester and Birmingham £10, elsewhere £8.

be implied when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term (sect. 14 of 1909). It will be observed that the implied condition is the same as in the case of sect. 75 of the Act of 1890. The differences, however, between the two sections are (i.) the rental limit is higher in the later section, and (ii.) the later section does not apply under certain conditions as to the term and stipulations of the letting. Furthermore, it must be noticed that the later section, when applicable, operates not only to imply a condition as to fitness at the commencement of the holding, but also an undertaking by the landlord to keep the premises fit during the continuance of the holding (see *infra*).

The last foregoing section, as respects contracts to which that section applies, takes effect as if the condition thereby implied included an undertaking that the house should, during the holding, be kept by the landlord in all respects reasonably fit for human habitation (sect. 15 (1) of 1909).

The landlord or the local authority, or any person authorised by him or them in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier, enter any house, premises, or building to which this section applies for the purpose of viewing the state and condition thereof (sect. 15 (2) of 1909).

If it appears to the local authority within the meaning of Part II. (*j*) of the Act of 1890 that the undertaking implied by virtue of this section is not complied with in the case of any house to which it applies, the authority must, if a closing order is not made with respect to the house, by written notice require the landlord, within a reasonable time (not being less than twenty-one days) specified in the notice, to execute such works as the authority may specify in the notice as being necessary to make the house in all respects reasonably fit for human habitation (sect. 15 (3) of 1909).

(*j*) For this meaning of "local authority," see *ante*, p. 157.

Within twenty-one days after the receipt of such notice the landlord may, by written notice to the local authority, declare his intention of closing the house for human habitation, and thereupon a closing order shall be deemed to have become operative in respect of such house (sect. 15 (4) of 1909).

If the notice given by the local authority is not complied with, and if the landlord has not given the notice mentioned in the immediately preceding sub-section, the authority may, at the expiration of the time specified in the notice given by them to the landlord, do the work required to be done and recover the expenses incurred by them in so doing from the landlord (sect. 15 (5) of 1909).

A landlord may appeal to the Local Government Board against any notice requiring him to execute works under this section, and against any demand for the recovery of expenses, or order made with respect to those expenses, by giving notice of appeal to the Board within twenty-one days after the notice is received, or the demand or order is made, as the case may be, and no proceedings may be taken whilst the appeal is pending (sect. 15 (6) of 1909).

The power of making byelaws under sect. 90 of the Public Health Act, 1875 (*ante*, p. 168), and sect. 94 of the Public Health (London) Act, 1891, with respect to houses let as lodgings or occupied by members of more than one family, extend, in the case of houses intended for the working classes, to the making of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) upon the owner within the meaning of the said Acts, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions under which any such duty is to be discharged (sect. 16 (1) of 1909).

For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises (sect. 16 (2) of 1909).

Where an owner or other person has failed to execute any work which he has been required to execute under the byelaws, the local authority or sanitary authority, as the case may be, may, after giving to him not less than twenty-one days' notice

in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of subsect. (5) of the last foregoing section (*ante*, p. 165), with respect to the execution of works and the recovery of expenses by local authorities, apply as if the owner or other person were the landlord, and with such other adaptations as may be necessary (sect. 16 (3) of 1909).

(E.) Powers of Enforcing Execution of Acts.

Certain special provisions intended to lead to the enforcement of the Housing Acts generally by negligent authorities are contained in sects. 10—13 of the Act of 1909.

Powers of Local Government Board on Complaint to Enforce Exercise of Powers.—Where a complaint is made to the Local Government Board (a) as respects any rural district by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any four inhabitant householders of the district; or (b) as respects any county district, not being a rural district, by the council of the county in which the district is situated, or by four inhabitant householders of the district; or (c) as respects the area of any other local authority by four inhabitant householders of the area; that the local authority have failed to exercise their powers under Part II. (*ante*, p. 157 *et seq.*) or Part III. (*ante*, p. 161 *et seq.*) of the Act of 1890 in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held. If, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, the Board may declare the authority to be in default, and may make an order directing that authority, within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default. Any order made by the Local Government Board under this section may be enforced by mandamus (*k*) (sect. 10 of 1909).

(*k*) For procedure by mandamus, see Wrottesley and Jacobs' Criminal Appeals, Chap. VII.

Power of Local Government Board to order Schemes, &c. to be carried out within a Limited Time.—Where it appears to the Local Government Board that a local authority have failed to perform their duty under the Housing Acts of carrying out an improvement scheme under Part I. (*ante*, p. 153 *et seq.*) of the Act of 1890, or have failed to give effect to any order as respects an obstructive building, or to a reconstruction scheme under Part II. (*ante*, p. 157 *et seq.*) of that Act, or have failed to make the inspection of their district (see sect. 17, *ante*, p. 158) required by this Act, the Board may make an order requiring the local authority to remedy the default, and to carry out any works or do any other things which are necessary for the purpose under the Housing Acts within a time fixed by the order. Any order made by the Local Government Board under this section may be enforced by mandamus (sect. 11 of 1909).

Powers of County Council to Act in Default of Rural District Council.—Where a complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any four inhabitant householders of that district, the county council may cause a public local inquiry to be held. If, after holding such an inquiry, the county council are satisfied that the rural district council have failed to exercise their powers under Part III. (*ante*, p. 161 *et seq.*) of the Act of 1890 in cases where those powers ought to have been exercised, the county council may resolve that the powers of the district council for the purposes of that part be transferred to the county council with respect either to the whole district, or to any parish in the district, and those powers shall be transferred accordingly, and, subject to the provisions of this Act, sect. 63 of the Local Government Act, 1894 (*l*), shall apply as if the powers had been transferred under that Act (sect. 12 of 1909).

(*l*) This contains conditions which apply on the transfer of powers from a district council to a county council, *e.g.*, notices to be given, allocation of expenses, &c.

Power of County Council to Exercise Powers of Rural District Council.—Where the council of a county are of opinion that for any reason it is expedient that the council should exercise, as respects any rural district in the county, any of the powers of a local authority under Part III. (*ante*, p. 161 *et seq.*) of the Act of 1890, the council, after giving notice to the council of the district of their intention to do so, may apply to the Local Government Board for an order conferring such powers on them. Upon such an application being made, the Board may make an order conferring on the county council, as respects such district, all or any of such powers. Where, under any such order, the county council have executed any works in a rural district, they may transfer the works to the council of that district on such terms, and subject to such conditions, as may be agreed between them (sect. 13 of 1909).

Houses Let in Lodgings.—Sect. 90 of the Public Health Act, 1875 (as amended by sect. 8 of the Housing of the Working Classes Act, 1885) enables every sanitary authority to make bye-laws relating to certain matters in connection with houses let in lodgings. It is expressly provided that the section is not to apply to "common lodging-houses," which are dealt with in Ch. VIII. (*ante*, p. 62 *et seq.*). On the other hand it must be observed that the operation of the section is not confined solely to lodgings of which the tenants are of the working class, although no doubt it was that class that the legislature had chiefly in view. In the case of houses intended for the working classes, such byelaws may be made to impose duties upon the *owner* of the premises as well as upon the immediate landlord. This is by sect. 16 of the Housing, Town Planning, &c. Act, 1909 (*ante*, p. 165). The matters in question are as follows:—(i) for fixing and from time to time varying the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family, and for the separation of the sexes in a house so let or occupied; (ii) for the registration of houses so let or occupied; (iii) for the inspection of such houses; (iv) for enforcing drainage and the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses; (v) for the cleansing and lime-washing at stated times of the premises, and for the paving of the courts and courtyards thereof; (vi) for the giving of notices and the taking of precautions in case of any infectious disease.

CHAPTER XX.

NATIONAL INSURANCE.

THE object of the National Insurance Act, 1911, is to provide, by means of insurance, against loss of health (whether temporary or permanent, *i.e.*, resulting in invalidity), the prevention and cure of sickness, insurance against unemployment, and purposes incidental thereto. The benefits provided are medical attendance, payments during sickness, payments during disablement, treatment in sanatoria, and maternity benefit. It would be beyond the scope of the present work to set out the provisions of this statute even in a condensed form. It is desirable, however, to indicate the functions of the insurance committees constituted by the Act for every *county* and *county borough*, as these have an important bearing upon various matters treated of in foregoing chapters. The committees are composed of nominees of (i.) the "approved" societies, (ii.) the council of the county or county borough, as the case may be, (iii.) the resident medical practitioners, and (iv.) the Insurance Commissioners. The primary function of these committees is to administer the benefits provided by Part I. of the Act (dealing with the national health insurance as distinct from unemployment insurance) in respect of insured persons not members of "approved" societies. In addition to those imposed or conferred upon it by Part I. of the Act, each committee has the following powers and duties:—

> It must make such reports as to the health of insured persons within the county or county borough as the Insurance Commissioners, after consultation with the Local Government Board, may prescribe, and must furnish to them such statistical and other returns as they may require, and may make to them such other reports on the health of

such persons and the conditions affecting the same and suggestions with regard thereto, as it may think fit, and the Insurance Commissioners must forward copies thereof to the councils of the counties, boroughs, and urban and rural districts, which appear to them to be affected by or interested in any such reports, returns, or suggestions. It must also make such provision for the giving of lectures and the publication of information on questions relating to health as it may think necessary or desirable.

For the purpose of assisting the committees in the exercise and performance of their powers and duties, and with a view to promoting co-operation between the committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of a committee and with the consent of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power (*m*).

Where it is alleged by the Insurance Commissioners or by any "approved" society or committee that the sickness which has taken place among any insured persons is excessive, and that such excess is due—

(i.) to the conditions or nature of employment of such persons, or

(ii.) to bad housing or insanitary conditions in any locality, or

(iii.) to an insufficient or contaminated water supply, or

(iv.) to the neglect on the part of any person or authority to observe or enforce the provisions of any Act relating to the health of workers in factories, workshops, mines, quarries, or other industries, or relating to public health, or the housing of the working classes, or any regulations made under such Act, or

(v.) to observe or enforce any public health precautions,

(*m*) Provision is also made for the constitution of "district committees," and for apportioning among them any of the powers and duties of the insurance committee.

the Commissioners or the society or committee making such allegation may send to the person or authority alleged to be in default a claim for the payment of the amount of any extra expenditure alleged to have been incurred by reason of such cause as aforesaid, and if the Commissioners, society, or committee and such person or authority fail to arrive at any agreement on the subject, may apply to the Secretary of State or the Local Government Board, as the case may require, for an inquiry, and thereupon the Secretary of State or Local Government Board may hold an inquiry. Where the allegation is made by a society or committee, the excessive sickness must have taken place among the persons for the administration of whose benefits the society or committee is responsible.

If upon such inquiry being held it is proved that the amount of such sickness has—

(i.) during a period of not less than three years before the date of the inquiry; or

(ii.) if there has been an outbreak of any epidemic, endemic, or infectious disease (*n*), during any less period;

been in excess of the average expectation of sickness by more than 10 per cent., and that such excess was in whole or in part due to any such cause as aforesaid, the amount of any extra expenditure found to have been incurred by reason of such cause must be ordered to be made good in accordance with the following provisions:—

(a) Where the excess or such part thereof as aforesaid is due to the conditions or nature of the employment or to any neglect on the part of any employer to observe or enforce any such Act or regulation as aforesaid, it must be made good by the *employer*;

(b) Where such excess or such part thereof as aforesaid is due to bad housing or insanitary conditions in the locality, or to any neglect on the part of any local authority to observe or enforce any such Act or regulation or such precautions as aforesaid, it must be made good by

(*n*) For meaning of these expressions, see *ante*, pp. 85, 86.

such *local authority* as appears to the person holding the inquiry to have been in default. If due to the insanitary condition of any particular premises it must be made good either by such *authority* or by the *owner, lessee, or occupier* of the premises who is proved to be responsible;

(c) Where the excess or such part thereof as aforesaid is due to an insufficient or contaminated water supply, it must be made good by the *local authority, company, or person* by which the water is supplied, or which (having imposed upon it the duty of affording a water supply) has refused or neglected to do so, unless it be proved that such insufficiency or contamination was not due to any default, but arose from circumstances over which there was no control.

Where any such inquiry as aforesaid is held in respect of bad housing or insanitary conditions in any locality, the local authority may serve notice upon the owner, lessee, or occupier of any premises which are the subject-matter of the inquiry, and, where it is proved that such extra expense as aforesaid has been caused by his act or default, he may be ordered to repay to the local authority the amount of the extra expenditure which has been so caused.

Provision is also made in the Act for the erection, support, and subvention of sanatoria for the treatment of consumption and such other diseases as the Local Government Board may order.

CHAPTER XXI.

MISCELLANEOUS.

In this chapter are referred to shortly certain enactments of a public health nature, which the limits of this work do not permit to be dealt with in any detail.

Canal Boats.—The Canal Boats Acts, 1877 and 1884, provide for the registration and sanitary regulation of canal boats and similar vessels when used as dwellings. The Act of 1877 provided that the Local Government Board should make regulations revocable and variable from time to time (i.) for the registration of canal boats under this Act, including certificates of registration, and the fees in connection with such registration; (ii.) for lettering, marking, and numbering of such boats; (iii.) for fixing the number, age and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; (iv.) for promoting cleanliness in and providing for the habitable condition of canal boats; and (v.) for preventing the spread of infectious disease by canal boats (*o*).

It is further provided that where any sanitary authority (*p*), within whose district a canal or any part of a canal is situate, is informed by the master of a canal boat or otherwise that a person on a canal boat is suffering from an infectious disorder, the authority must cause such steps to be taken as may by the certificate of their medical officer of health, or of any other

(*o*) Regulations made under this provision are set out in Vol. II. of Lumley's Public Health.

(*p*) This means urban, rural, or port sanitary authority.

legally qualified practitioner, appear requisite for preventing the said disorder from spreading. For that purpose they may exercise the power of removing a person suffering as aforesaid, and all other powers in relation to provisions against infection conferred by the Public Health Act, 1875 (*q*), and may also, if need be, detain the boat; but such boat must not be detained a longer time than is necessary for cleansing and disinfecting the same. Provision is also made giving a right of entry to authorised persons upon a canal boat where there is reasonable cause to suppose either that there is any contravention of the Act on board, or that there is on board any person suffering from an infectious disorder.

Food and Drugs.—The statutes which may be cited collectively as the Sale of Food and Drugs Acts, 1875—1907, are as follows:—The Sale of Food and Drugs Act, 1875, the Sale of Food and Drugs Act Amendment Act, 1879, the Margarine Act, 1887, the Sale of Food and Drugs Act, 1899, and the Butter and Margarine Act, 1907. The object of these Acts is not to prevent the sale of unsound food, which is dealt with by the provisions of the Public Health Acts referred to in Ch. XI., *ante*, p. 81 *et seq.*, but to ensure that the article supplied shall be of the nature and quality which the purchaser must be deemed to have demanded—in other words, the prevention of adulteration. The offences created are the adulteration of articles of food with ingredients injurious to health, the adulteration of drugs with ingredients that will injuriously affect their quality or potency, and the sale of any food or drug not of the nature, substance, and quality demanded by the purchaser. The Acts provide for the appointment of analysts and the taking and analysis of samples. In certain cases protection is afforded to an innocent immediate seller who has himself bought the food or drug under a sufficient warranty. Generally speaking, however, ignorance on the part of the seller is no defence—in other words, *mens rea* is not necessary to constitute the offence (*Betts* v. *Armstead* (1888), 20 Q. B. D. 771; 52 J.P. 741; 57 L.J.M.C. 100; 58 L.T. 811; 36

(*q*) See sects. 120—130 of that Act (*ante*, Ch. XII., pp. 87—91).

W. R. 720; 16 Cox, C. C. 418; and *Parker* v. *Alder*, [1899] 1 Q. B. 20; 62 J. P. 772; 68 L. J. Q. B. 7; 79 L. T. 381; 47 W. R. 142).

Diseases of Animals.—The statutes which comprise the Diseases of Animals Acts, 1894—1911, are as follows:—The Diseases of Animals Act, 1894, the Diseases of Animals Act, 1896, the Diseases of Animals Act, 1903, the Diseases of Animals Act, 1909, the Diseases of Animals Act, 1910, and the Poultry Act, 1911. These Acts deal with the separation and notification of animals suffering from contagious diseases, as precautions to be taken against cattle plague. They also contain provisions relating to infected places and areas, the slaughter of infected animals and compensation to the owner, the importation and quarantine of animals from abroad suspected to come from infected countries, and the making of regulations by the Board of Agriculture. They also regulate the slaughter and exportation of unfit horses.

Factories and Workshops.—The Factories and Workshops Acts of 1901 and 1907 contain an extensive code for the regulation of the conditions of work and sanitation in factories, workshops, and work-places.

Tents, Vans, &c.—It is provided by sect. 9 of the Housing of the Working Classes Act, 1885, that a tent, van, shed or similar structure used for human habitation which is in such a state as to be a nuisance or injurious to health, or which is so overcrowded as to be injurious to the health of the inmates, shall be a nuisance within sect. 91 of the Public Health Act, 1875 (*ante*, p. 70). Furthermore, a sanitary authority may make byelaws for promoting cleanliness in and the habitable condition of such premises, and for preventing the spread of infectious disease by the habitants and for the prevention of nuisances.

Alkali, &c. Works.—The Alkali, &c. Works Regulation Act, 1906, deals with the prevention of the discharge of noxious and offensive gas in alkali works, the separation of acids and other substances from alkali waste and drainage therefrom, and the prevention of nuisances from alkali waste. Similar provisions are included in the case of sulphuric acid, muriatic acid, and other specified works. The registration and inspection of such works is also provided for.

Phosphorus Matches.—The White Phosphorus Matches Prohibition Act, 1908, prohibits the use of the substance usually known as white or yellow phosphorus in the manufacture of matches. It further prohibits the sale, the offer or exposure for sale, or the possession for purposes of sale of matches so made and also the importation thereof. On the other hand, a person manufacturing or proposing to manufacture matches by way of trade may petition the Board of Trade for a grant of a licence to use any patented process for the manufacture of matches without white phosphorus, other than matches intended to strike only on a specially prepared surface.

Dairies, Cowsheds and Milkshops.—By virtue of sect. 34 of the Contagious Diseases (Animals) Act, 1878, and sect. 9 of the Contagious Diseases (Animals) Act, 1886 (not repealed by the Diseases of Animals Act, 1894, *supra*, p. 175), the Local Government Board may from time to time make general or special orders for the following purposes, or any of them: (i.) For the registration with the local authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk, (ii.) for the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilation, cleansing, drainage and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen, (iii.) for securing the cleanliness of milk-stores, milkshops, and of milk-vessels used for containing milk for sale by such persons, (iv.) for prescribing precautions to be taken for protecting milk against infection or contamination, (v.) for authorising a local authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions (if any) as the Local Government Board may prescribe (*r*).

Sale of Poisons.—The Poisons and Pharmacy Act, 1908, regulates the sale of certain poisonous substances by providing for the labelling thereof as "poisonous," and by certain other

(*r*) Orders made under the above provisions are set out in Vol. II. of Lumley's Public Health.

provisions in connection with the Pharmacy Act, 1868, and other statutes.

Medical Treatment of School Children.—By the Education (Administrative Provisions) Act, 1907, and the Local Authorities (Medical Treatment) Act, 1909, medical treatment may be provided by local education authorities for children attending the public elementary schools, and in proper cases the cost thereof may be recovered from the parent.

Shops.—The Shops Regulation Acts, 1892—1911, consist of the Shop Hours Act, 1892, the Shop Hours Act, 1893, the Shop Hours Act, 1895, the Seats for Shop Assistants Act, 1899, the Shop Hours Act, 1904, and the Shops Act, 1911. They regulate the hours of working and other matters in connection with the employment of shop assistants, including the provision of a sufficient time for meals, early closing, and a weekly half-holiday.

Children.—The Employment of Children Act, 1903, the Prevention of Cruelty to Children Act, 1904, the Children Act, 1906, and the Employment of Children Act, 1911, contain provisions bearing upon the preservation of the lives of and the health of children.

Mines.—The Mines Act, 1911, contains provisions bearing on the health of persons employed in coal and other mining. The Metalliferous Mines Regulation Act, 1872, provides for the fencing of abandoned mines.

Midwives.—The Midwives Act, 1902, is to secure the better training of midwives, and regulates their practice, and provides for their certification and supervision.

Commons.—By the Commons Act, 1899, councils of urban and rural districts and of county boroughs may make schemes for the regulation and management of any common within their district with a view to the expenditure of money on the

drainage, levelling, and improvement of the common, and may make byelaws and regulations for the prevention of nuisances and the preservation of order on the common. The Board of Agriculture may make regulations relating to schemes as above (*s*).

Baths and Washhouses.—The Baths and Washhouses Acts, 1846—1899, enable local authorities to make provision for baths and washhouses for the use of the public.

Gymnasiums.—The Museums and Gymnasiums Act, 1891, enables local authorities to provide, *inter alia*, public gymnasiums.

Verminous Persons.—By the Cleansing of Persons Act, 1897, local authorities are given the power to permit any person who makes application on the ground that he is infested with vermin, to have the gratuitous use of any apparatus which an authority may possess for cleansing the person and his clothing from vermin.

Sale of Horseflesh.—The Sale of Horseflesh, &c. Regulation Act, 1889, regulates the sale of the flesh of horses, asses and mules for the purpose of human food.

Petroleum.—The Petroleum Act, 1871, provides for the safe keeping of petroleum, and other substances of a like nature.

Town Planning.—Under this head may be mentioned the provisions of Part II. of the Housing, Town Planning, &c. Act, 1909 (*t*). Shortly it may be stated that this part of the Act enables urban and rural sanitary authorities, and in London the County Council, to make town planning schemes in respect of land which is in course of development, or appears likely to be used for building purposes, with the general object of

(*s*) Regulations have been made, and will be found in Vol. II. of Lumley's Public Health.

(*t*) Part I. of this statute relating to housing of the working classes is dealt with in Chap. XIX., *ante*, p. 153 *et seq.* Part III., relating to county medical officers, county public health and housing committee, &c., is dealt with in Chap. II., *ante*, p. 12.

securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of the land and of any neighbouring lands.

The Local Government Board may authorise any of the above authorities to prepare such a town planning scheme with reference to any land within or in the neighbourhood of their area, if the authority satisfy the Board that there is a *primâ facie* case for making such a scheme; or the Board may authorise a local authority to adopt, with or without any modifications, any such scheme proposed by all or any of the owners of any land with respect to which the local authority might themselves have been authorised to prepare a scheme.

Where it is made to appear to the Local Government Board that a piece of land already built upon, or a piece of land not likely to be used for building purposes, is so situated with respect to any land likely to be used for building purposes, that it ought to be included in any town planning scheme made with respect to the last-mentioned land, the Board may authorise the preparation or adoption of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

A town planning scheme may be varied or revoked by a subsequent scheme prepared, or adopted and approved in accordance with this part of this Act; and the Local Government Board, on the application of the responsible authority, or of any other person appearing to them to be interested, may by order revoke a town planning scheme if they think that, under the special circumstances of the case, the scheme should be so revoked.

The expression "land likely to be used for building purposes" includes any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not. The decision of the Local Government Board, whether land is likely to be used for building purposes or not, is final.

The Local Government Board may prescribe provisions for

carrying out the objects of town planning schemes, and may make regulations (*u*) for regulating generally the procedure to be adopted with respect to applications for authority to prepare or adopt a town planning scheme, the preparation of the scheme, obtaining the approval of the Board to a scheme so prepared or adopted, and any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or approval of the scheme, or preliminary thereto or in relation to the carrying out of the scheme, or enforcing the observance of the provisions thereof.

The responsible authority may at any time, after giving such notice as may be provided by a town planning scheme and in accordance with the provisions of the scheme, (a) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with, or (b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

Any expenses incurred by a responsible authority under this section may be recovered from the persons in default in such manner, and subject to such conditions, as may be provided by the scheme.

If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Local Government Board, and shall, unless the parties otherwise agree, be determined by the Board as arbitrators, and the decision of the Board shall be final and conclusive, and binding on all persons.

Any person whose property is injuriously affected by the making of a town planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme

(*u*) Regulations have been made.

(not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Local Government Board (*v*)), be entitled to obtain compensation in respect thereof from the responsible authority.

The responsible authority may, for the purpose of a town planning scheme, purchase any land comprised in such scheme by agreement; or be authorised to purchase any such land compulsorily in the same manner and subject to the same provisions as a local authority may purchase or be authorised to purchase land situate in an urban district for the purposes of Part III. of the Housing of the Working Classes Act, 1890 (*ante*, p. 161).

If the Local Government Board are satisfied on any representation, after holding a public local inquiry, that a local authority (a) have failed to take the requisite steps for having a satisfactory town planning scheme prepared and approved in a case where a town planning scheme ought to be made, or (b) have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted, or (c) have unreasonably refused to consent to any modifications or conditions imposed by the Board; the Board may, as the case requires, order the local authority to prepare and submit for the approval of the Board such a town planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted. It is provided, however, that where the representation is that a local authority have failed to adopt a scheme, the Local Government Board, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Board think fit, and thereupon the scheme shall have effect as if it had been adopted by the local authority and approved by the Board.

If the Local Government Board are satisfied on any representation, and after holding a local inquiry, that a responsible authority have failed to enforce effectively the observance of a scheme which has been confirmed, or any provisions thereof,

(*v*) Regulations have been made.

or to execute any works which under the scheme, or this part of this Act, the authority is required to execute, the Board may order that authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme, or this part of this Act, the authority is required to execute.

Sect. 85 of the Housing of the Working Classes Act, 1890 (which enables inquiries to be held by the Local Government Board for the purposes of that Act), as amended by this Act, is applicable for any purposes of this part of the present Act, in the same manner as it applies for the purpose of the execution of the powers and duties of the Local Government Board under the former Act.

Fertilisers and Feeding Stuffs.—The Fertilisers and Feeding Stuffs Act, 1906, is intended for the protection of purchasers of fertilisers of the soil and food for cattle or poultry. By "cattle" is meant "bulls, cows, oxen, heifers, calves, sheep, goats, swine, and horses." The Act provides for the giving of a warranty as to the ingredients when the article has been subjected to any artificial process, and in the case of a fertiliser, when it has been imported from abroad. It provides for the appointment of agricultural analysts by the Board of Agriculture, and County and Borough Councils, and purchasers may submit the article for analysis. The Board of Agriculture may make regulations upon various matters, and such regulations have been made.

Bread.—The manufacture and sale of bread is provided for by the Bread Act, 1836. The substances to be used are as prescribed. If not made of wheat it must be marked "M." Millers are liable for the adulteration of corn, meal, or flour with ingredients not produced from ground corn or grain. Flour made of one grain must not be sold as flour made of another. To constitute the offence guilty knowledge must be shown (*Core* v. *James* (1871), L. R. 7 Q. B. 135; *Pain* v. *Boughtwood* (1890), 24 Q. B. D. 353). The rule is different under the Sale of Food and Drugs Acts (see *ante*, p. 174), which also apply.

Tea and Coffee.—In addition to the Sale of Food and Drugs Acts (*ante*, p. 174), the purchaser of tea and coffee is protected by the Adulteration of Tea and Coffee Act, 1874, Adulteration of Tea Acts, 1730 and 1776, and the Customs and Inland Revenue Act, 1882.

Beer and Hops.—The adulteration of these is dealt with by the Adulteration of Hops Act, 1733, the Customs and Inland Revenue Act, 1885, and Orders made in pursuance of the Customs and Inland Revenue Act, 1888. They of course come also within the Sale of Food and Drugs Acts (*ante*, p. 174).

CHAPTER XXII.

THE METROPOLIS.

As was stated in Chapter I., London occupies in Local Government a position distinct from the country generally. The statutory provisions which apply are contained largely in a special series of Acts, orders, and byelaws, and these are administered by a special set of authorities.

The Statutes.

Public Health (London) Acts.—The statute which in London corresponds with the Public Health Act, 1875, is the Public Health (London) Act, 1891. The topics dealt with are nuisances, offensive trades, smoke consumption, workshops and bakehouses, dairies, removal of refuse, water-closets, &c., unsound food, water, notification and prevention of infectious diseases, mortuaries, &c., lodgings, tents and vans, underground rooms, authorities, Port of London Sanitary Authority. The powers given are roughly the same as those given in relation to the same matters by the general Public Health Acts. The Act of 1891 has been slightly amended by the Public Health (London) Act, 1891, Amendment Act, 1893, and the Public Health Act, 1896.

Metropolis Management Acts.—The London Act of 1891 is not as wide in its scope as the general Act of 1875, and many matters, such as sewers and drains, and streets, are left untouched by it. These are regulated by a series of statutes known as the Metropolis Management Acts, which range at intervals from 1855 to 1899, and by certain other statutes.

Authorities.

Apart from the Local Government Board (*ante*, Ch. II., pp. 8 *et seq.*), which occupies in respect of the London authorities positions similar to that which is occupied by them in relation to the provisional authorities, these are as follows:—(i.) The London County Council, (ii.) the Metropolitan Borough Councils, (iii.) the City Corporation, (iv.) the Metropolitan Water Board, (v.) the Metropolitan Asylums Board, (vi.) the Thames and Lea Conservancies, (vii.) Boards of Guardians, (viii.) the Insurance Committee under the National Insurance Act, 1911.

(i.) The London County Council.—This body dates from the Local Government Act, 1888. Its area is the administrative County of London. In the domain of public health, its principal powers may be stated as follows. It maintains the main sewers and carries out the disposal of sewage. It carries out by itself street and other improvements of a general nature, and those which are particularly general and particularly of a local character it carries out jointly with the Metropolitan boroughs. It maintains and lights the Thames Embankments and the bridges which do not cross into the City. It pays the Metropolitan boroughs for the maintenance of certain of the main roads. With some trifling exceptions, it administers the London Building Acts, and it is the authority for town planning under the Housing and Town Planning, &c. Act, 1909. It makes byelaws for the removal of refuse and in relation to infectious diseases. It makes byelaws relating to insanitary dwellings. It registers and inspects common lodging-houses. It licenses slaughter-houses. It authorises or suppresses offensive businesses. It administers the Acts relating to contagious diseases of animals. It is the authority for seeing that the constant water supply is provided, although the water is supplied by the Metropolitan Water Board. It carries out the clearance of large insanitary areas under Part I. of the Housing of the Working Classes Act, 1890. It is the authority for parks and open spaces with certain exceptions. It maintains asylums for lunatics.

(ii.) Metropolitan Borough Councils.—These are divisions of the administrative county of London, and were constituted by the London Government Act, 1899. The borough councils maintain the drains and sewers running into the main sewers. They undertake improvements of a purely local nature. They maintain the streets for which they are the paving, cleansing, watering, and scavenging authorities. They are the lighting authorities. They exercise a few small powers under the London Building Act. They have the duty of removing house refuse, garbage, and dust, the byelaws relating to which, however, are passed by the County Council. They are the authorities for the suppression of smoke and other nuisances, including nuisances caused by offensive businesses, and arising from defective water fittings. The public health provisions relating to infectious diseases are administered by them, subject to the supervision of the County Council, which makes byelaws for that purpose. They administer the Food and Drugs Acts, and are the registration authority for dairies. They have in their care the sanitary supervision of factories, workshops, and bakehouses. They are the authorities to administer the Public Health Acts in relation to the sanitary conditions of houses, including the prevention of overcrowding. They inspect slaughter-houses, which, however, are licensed by the County Council. They provide mortuaries. They have the duty of seeing to the sufficiency of the water supply to new houses, and to the cleaning of cisterns. With them rests the clearing of small insanitary areas under Part II. of the Housing of the Working Classes Act, 1890. The County Council and borough councils may, however, contribute to each other's schemes. The borough councils have to see to the cleansing and demolition of insanitary holdings. They have the maintenance of certain of the small open spaces. They have the supervision of cemeteries. They are the authorities for the adoption and administration of the adoptive Acts, *e.g.*, Burial Acts, Public Libraries Acts, the Baths and Washhouses Acts.

(iii.) The City Corporation.—It may be said generally of the City Corporation that all the functions which are excepted from those of the County Council and which are vested in the borough councils as regards their areas, are vested in the City Corporation within the City area. In addition certain others which are not excepted from those of the County Council as regards the Metropolitan boroughs are so excepted in relation to the City, for example, the bridges which run into the City are under the Corporation. The City is also largely the building authority. It regulates offensive businesses within its area. It is the authority for enforcing a constant water supply. It is the housing authority. The Corporation is also the sanitary authority for the Port of London.

(iv.) The Metropolitan Water Board.—This was constituted by the Metropolis Water Act, 1902. It is the water supply authority for the administrative county of London and for a large area beyond. It consists of representatives nominated by the various local authorities within its area.

(v.) The Metropolitan Asylums Board.—This consists of representatives of the boards of guardians and of the Local Government Board. It maintains asylums for imbeciles, infectious diseases hospitals, convalescent homes, and the London Ambulance Service. Its area is the administrative county of London.

(vi.) The Thames and Lea Conservancies.—The former is a nominated authority which, *inter alia,* has the duty of preventing the pollution of the Thames from Cricklade, in Wilts, to the landward limit of the Port of London. The latter body, also nominative, performs a similar function for the River Lea.

(vii.) The Boards of Guardians.—The public health functions of these bodies are similar to those in the provinces (see *ante,* Ch. II., p. 14).

(viii.) The Insurance Committee under the National Insurance Act, 1911. This does not differ from those in the provinces (see *post*, Ch. XX.).

It is not possible in the space of this work to treat the public health administration of London at greater length than the foregoing, but three further remarks may be made:—

(i.) A number of functions which, as a rule, in the large provincial boroughs are attached to some general authority, are in London vested in special or *ad hoc* authorities. An instance of this is the Metropolitan Water Board. The reason is that in such cases the carrying out of the function has to be performed for a larger area than the administrative county of London, and the legislature did not see its way clear to give the London County Council jurisdiction beyond its own boundaries.

(ii.) The distribution of powers between the London County Council and the Metropolitan boroughs is wholly different from that between the provincial county council and the borough and urban district councils within the county, the Metropolitan borough councils having far less powers than the urban sanitary authorities in the provinces.

(iii.) On the other hand, the public health powers possessed by the Metropolitan authorities, taken as a whole and without regard to the distribution of those powers, correspond nearly with those possessed by the provincial authorities. Substantially every sanitary provision contained in any statute applicable only to the provinces finds its counterpart in some public or private statute applicable exclusively to the Metropolis. In other words, the contents of the preceding chapters of this work relating to the various branches of public health, apply in substance to London, although if written with specific reference to London in many cases different legislative authority would have to be cited.

APPENDIX.

Sect. 39 of the Public Health Acts Amendment Act, 1907.

(See *ante*, p. 46.)

(1) In this section, unless the context otherwise requires—

The expression "closet accommodation" includes a receptacle for human excreta, together with the structure comprising such receptacle and the fittings and apparatus connected therewith;

The expression "pail closet" means closet accommodation including a moveable receptacle for human excreta;

The expression "water-closet" means closet accommodation used or adapted or intended to be used in connection with the water carriage system, and comprising provision for the flushing of the receptacle by means of a fresh water supply, and having proper communication with a sewer;

The expression "slop-closet" means closet accommodation used or adapted or intended to be used in connection with the water carriage system, and comprising provision for the flushing of the receptacle by means of slops or waste liquids of the household or rain water, and having proper communication with a sewer;

The expression "a sufficient water supply and sewer" means a water supply and a sewer which are sufficient and reasonably available for use in, or in connection with, the efficient flushing and cleansing of, and the efficiont removal of excreta from such number of proper and sufficient water-closets and slop-closets, or from such one or more of either class of closet as, in pursuanco of this section, may be roquirod to be provided in any particular case.

(2) Within one month after the doposit of any plan by a person intending to erect a new building, the local authority, where there are a sufficient water supply and sewer, may by written notice to that person require the new building to be provided with such

number of proper and sufficient water-closets and slop-closets, or with such one or more of either class of closet, as the circumstances of the case may render necessary.

Any person who fails to comply with any requirement of the local authority under this sub-section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) If, on the report of the medical officer or the surveyor or the inspector of nuisances, the local authority are satisfied that sufficient closet accommodation has not been provided at or in connection with a building, and the case is not one in which sufficient closet accommodation can be provided by the alteration of any existing closet accommodation in pursuance of this section, the local authority, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of the building require the building to be provided with such number of proper and sufficient water-closets and slop-closets, or with such one or more of either class of closet, as the circumstances of the case may render necessary.

If the owner or owners of the building fail to comply with any requirement of the local authority under this sub-section, the local authority may, at the expiration of a time which shall be specified in the notice and shall not be less than fourteen days after the service of the notice, do the work required by the notice, and may recover summarily as a civil debt from the owner or owners the expenses incurred by the local authority in so doing.

(4) The local authority, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of a building require any existing closet accommodation (other than a water-closet or a slop-closet) provided at or in connection with the building to be altered, so as to be converted into a water-closet or slop-closet.

If the owner or owners of the building fail to comply with any requirement of the local authority under this sub-section, the local authority may, at the expiration of a time which shall be specified in the notice and shall not be less than fourteen days after the service of the notice, do the work required by the notice.

Where in pursuance of this sub-section any work of alteration is done by the local authority in default of the owner or owners in respect of a pail-closet, the expenses of the work shall be borne by the local authority, and where in pursuance of this

sub-section any work of alteration is done by the local authority in default of the owner or owners in respect of any existing closet accommodation other than a pail-closet, one-half of the expenses of the work shall be borne by the local authority, and the remainder of the said expenses shall be borne by the owner or owners and shall be recoverable summarily as a civil debt.

Every notice in pursuance of this sub-section shall state the effect of the sub-section.

(5) Nothing in this section shall have effect with respect to a slop-closet, unless or until the Local Government Board have been satisfied by the local authority, and have by order declared that the circumstances of the district of the local authority are such as to render it necessary or expedient that this section shall have effect with respect to a slop-closet.

Any order in pursuance of this sub-section shall be published in such manner as the Local Government Board direct.

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